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ABSTRACT

Intended to supplement secondary level world history courses, this booklet will help students understand the history of and need for rules and laws. There are five units. In the first unit, students examine evidence from anthropology and archaeology which show how rules developed in prehistoric cultures. The second unit deals with the Code of Hammurabi and helps students understand Mesopotamian ideas about justice and law. Justice and making rules work are the major topics of unit 3. Students learn how the Greeks kept their "an eye for an eye" concept of justice from becoming an excuse for endless killing. The fourth unit treats legal processes. Examined are the ways of enforcing and making judgments under the law in England during the Middle Ages. The need for authority is the focus of the concluding unit, which contains stories set in 14th century Renaissance in Italy. Students are involved in many different kinds of activities. For example, they analyze case studies, read and discuss fictional short stories, study time lines, give brief oral reports, write endings to stories, and participate in mock trials. Discussion questions and definitions of new vocabulary are included. (RM)

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OF CODES AND CROWNS: THE DEVELOPMENT OF LAW

Developed and written by
Coral Suter and Marshall Croddy

LAW-IN-SOCIAL STUDIES SERIES

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Unit 1 In the Beginning: Where Do Rules Come From?

Vocabulary

anthropology (n) The study of human behavior. From the Greek word *anthropos*, which means man.

archaeology (n) The study of the physical evidence (bones, artifacts, etc.) left by previous human cultures. From the Greek word *arkhaios*, which means ancient or old.

artifact (n) Anything which has been shaped or changed by a human being. This word is used when people talk about tools, ornaments and weapons from ancient times.

clan (n) A group of people who are related, who can trace their families back to a common ancestor. Clans may be one of the most basic human groups.

excavation (n) The act of digging, hollowing out or making a hole.

fossil (n) The trace of a plant or animal from a past age which has been embedded in the earth's crust or turned to stone. Fossilize (v) means to turn into a fossil.

hominid (n) Any creature which belongs to the biological family of *Hominidae*. *Homo sapiens* are the only creatures in the hominid family which still exist.

tradition (n) A belief, custom, way of making tools, or way of thinking which has been passed down among a people or culture from generation to generation.

speculate (v) To think about in an orderly manner; to reach a conclusion or make a judgment, especially when all the facts about a problem or question aren't known.

Wide World Photos.

The Birth of Humans

Where do I come from?
Nobody knows.
Where am I going?
Where the wind blows.

People have always asked the question, "Where do I come from?" They've thought of many different answers.

- The Pomo, the Yuki, and other Native Americans of northwest California tell a story about how Coyote created people from the feathers of his dead friend, Eagle. It took him almost three weeks and many false starts.

- Lightning killed a pregnant woman who lived in heaven and hurled her body to the earth. A friendly crab found the body and cut it open. Out jumped a girl and a boy, the parents of all humans. So say the Cashinaua people of western Brazil.

- In Australia, the Arunta believe that the Spirits came down from the sky. They caught tiny creatures which lived in the shallow ocean. With long stone knives, the Spirits shaped these creatures into humans.

- Ancient Sumerians thought the Goddess of the First Sea and Her friend, Mother Earth, made people out of clay. They didn't do a very good job, which is why we're so imperfect.

How accurate are these stories? Are they just fairy tales? Are they a record of how we began told in the abstract, mythical way? We'll probably never know the answers to these questions. No one was around at the birth of the first human to write down the details.

No matter how difficult the search, we are driven to know more about our earliest ancestors. What were those first people like? How did they live? What did they think and feel? Anthropology is one of the ways we satisfy this curiosity.

Anthropologists look at how modern people behave. Then, using scientific methods, they make theories about how early peoples lived. How can they test these theories? Are there people who still live like our ancestors, people who live in the wild, who don't know metal, who don't even farm? Among the vast variety of peoples on earth, can we still find the Stone Age?

The Tasaday in their limestone home. United Press International.

The People of Tasaday Mountain

In 1971, a helicopter descended on a tiny patch of cleared land in Mindanao. For the first time in centuries, a small group of people who live deep in the rain forest made contact with the outside world. Dressed in orchid leaves, their hair tied back with vines, these people call themselves the Tasaday. This is also the name of the mountain in which they live and the clear stream which rushes past the entrance to their caves.

The Tasaday gather their food from the forest. They use sticks and deer antlers to dig for wild yams and palm hearts. They catch tadpoles, frogs, crabs and grubs with their bare hands. Some of the food is eaten raw, on the spot. The rest is wrapped in leaves or bamboo tubes and roasted back at the caves.

Until recently, they ate no meat. Then someone taught them to use bows and arrows and make traps. They now sometimes catch mice, monkeys, deer and wild pigs. The Tasaday don't farm but, when gathering yams, they leave part of the root intact so it will grow back.

The Tasaday share all their food equally. If people are out in the forest, their shares are set aside until they return. If there is not enough food, they divide what they have among the smallest children.

Though the children often bicker while playing or when hungry, adult Tasaday never argue or fight. "Loud voices and sharp looks," they say, "do not look good to our eyes." They have no weapons and no words in their language for enemy or war. One scientist called them "the gentlest people on the earth."

The Tasaday make decisions as a group. There's no official leader. Consider how the group decided to contact outsiders: "We gathered together and some did not want to go, some did. I, Balayam, urged them to go. It was not a long meeting. We just met and decided that we would all go." (Balayam is one of the younger adult Tasaday.)

The group's decisions are influenced by their traditional beliefs. "My father's father told my father," said Balayam, "and my father told me that we can roam in the forest in daytime, but must come back to the cave at night. It is always safe there." In practice, some Tasaday stay out two or three nights at a time, but not often.

"The night has thorns, snakes, leeches, things you cannot see," continued Balayam. "And you might slide off a cliff. In the daytime we can see these things, and our bird warns us. When it calls, we stay still. My father told me that. If you go out when the bird calls, something bad may happen — a branch may fall on you, or you may fall down yourself, or a snake may bite you."

The bird Balayam mentioned is called *le mokan*. When the Tasaday hear its call, they will not leave their caves. They also believe it is wrong to cut or even break the plants growing close to their home. The owner of the caves, they say, will punish anyone who hurts the plants.

They have no official rules about divorce, but Tasaday couples stay married "until their hair turns white." They say other people live in the forest like they do. Since they cannot marry relatives, they sometimes trade spouses with these people.

We do not know where the Tasaday came from or how advanced their civilization once was. For the past 500 years, they have been living in caves using only stone tools. But they are not stone age people. The Tasaday are *homo sapiens*. Our earliest ancestors belonged to a different species.

1. **Where do the Tasaday live?**
2. **Why are anthropologists interested in the Tasaday?**

Habits

All animals follow certain patterns of behavior. Lionesses work together when hunting. They seem to know how by instinct. The old lion who bosses the group and the cubs know to keep out from under foot until the killing is done. Hunting isn't part of their job descriptions. The patterns the pride follows aren't rules. They're habits, passed from generation to generation by tradition and genes. Such habits guide the animals' lives together and help them survive.

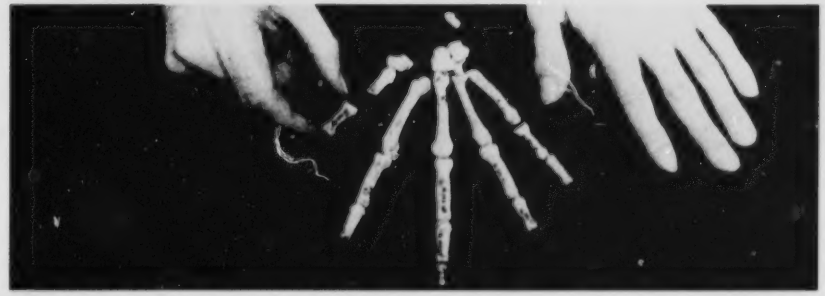
Human groups also behave according to traditional patterns. People get food, make tools and use their environments in certain ways. Habits guide their relationships with each other and their beliefs about the world. These habits can be as simple as always eating the same kind of food or as complicated as a wedding ceremony.

Because the Tasaday live so simply, anthropologists are very interested in their traditional patterns of behavior. What habits guide their lives? Your teacher will assign one of the following topics:

- Food
- Home and environment
- Relationships with each other

With the other students in your group, examine "The People of Tasaday Mountain." Find at least three examples of the patterns of behavior, the habits, which the Tasaday follow with regard to your topic. Then, again as a group, prepare a brief oral report listing and describing the habits you've discovered.

1. **Anthropologists often speculate about why people follow certain patterns. Why do you think the Tasaday refuse to leave their caves at night? How does this habit help them? Where do you think it comes from?**
2. **Why do you think Tasaday adults don't argue or fight with each other? How does this tradition help the Tasaday? What might happen if they abandoned this habit?**
3. **Another Tasaday habit is that of making important decisions as a group rather than obeying decisions made by a leader. As you worked on the "Habits" activity, did everyone take part in making decisions? Or did one or two people do most of the work? Did a leader emerge? What are the advantages of sharing decision-making? Of following a leader?**



This 3 million-year-old hand belonged to one of the creatures at Afar. Wide World Photos.

From Stones and Bones

Studying the Tasaday helps us understand how early peoples might have lived. It establishes possibilities, not facts. Hard evidence about prehistoric cultures comes from another science, archaeology. Archaeology is the study of physical things — bones and belongings — left by previous people. For the beginning of our history, this evidence is very scarce. Even so, the first people did leave traces.

Case 1: Footprints. 3,600,000 years ago, someone walked across a flat desert at *Laetoli* in East Africa. A little while later, someone else, slightly smaller, followed. Halfway across the desert the second creature paused. It turned a little to the left and then continued.

We know this because the two creatures left footprints which were fossilized in the desert sand. They walked upright, without using their arms. Their feet were very much like ours.

Case 2: Bones. 3,000,000 years ago, 13 creatures, male and female, young and old, were buried together in a river bed near *Afar,* Ethiopia. They may have all drowned when a flash flood caught them sleeping or died of a sudden illness. Their fossilized bones show creatures who walked on two feet. They had hands like ours. Their skulls look like chimpanzee skulls.

Case 3: A Home. 1,770,000 years ago, a group of creatures made a home beside a lake in East Africa. When they moved on, they left behind them a floor littered with animal bones. They left some very simple stone tools. And they left the body of one of their group.

The waters of the lake and a shower of volcanic ash covered the area right after the creatures moved out.The campsite at *Olduvai Gorge* shows that these creatures lived in groups. They hunted animals. They returned home after the hunt to eat their kill.

These three cases prove to most scientists that human-like creatures, called hominids, existed millions of years ago. But few agree about exactly who or what these creatures were. Some say they were apes, not people. Others say they were our early ancestors, something more than ape but less than human. Others say they were humans, much like you or me.

A million and a half years ago, the hominids had already been around for more than two million years. All that time, they were slowly changing. By 1,600,000 B.C., the hominids had developed into a creature very like a modern human. This creature is called *homo erectus,* "standing man."

Homo erectus did much more than stand around. Over the next million years, these people walked, ran, and perhaps danced across Africa, Central Asia, the Far East. Finally, they moved to the colder climates of northern Asia and Europe. Evidence of their lives, their work, and their journeys has been found all over the Old World.

By 700,000 B.C., *homo erectus* captured the secret of controlling fire. By 400,000 B.C., they were living in huts and tents built with their own hands. Around 100,000 B.C., they became us: *homo sapiens,* "wise man."

Like all creatures who live together, the hominids and *homo erectus* followed set patterns of behavior. Group traditions taught certain ways of chipping stone, of building shelter, of making fire. Habits guided the groups' social structures. Somewhere in the patterns of behavior *homo erectus* lived by are the beginnings of human rules.

1. How does archaeology contribute to our understanding of the lives of early people?

2. Most people agree that the hominids belong in some way to the human family. (Homo means "man" in Latin.) Do you think the creatures in Case 1 were human beings? In Case 2? In Case 3? Why or why not?

3. What do you think makes a creature human? What separates humans from other animals?

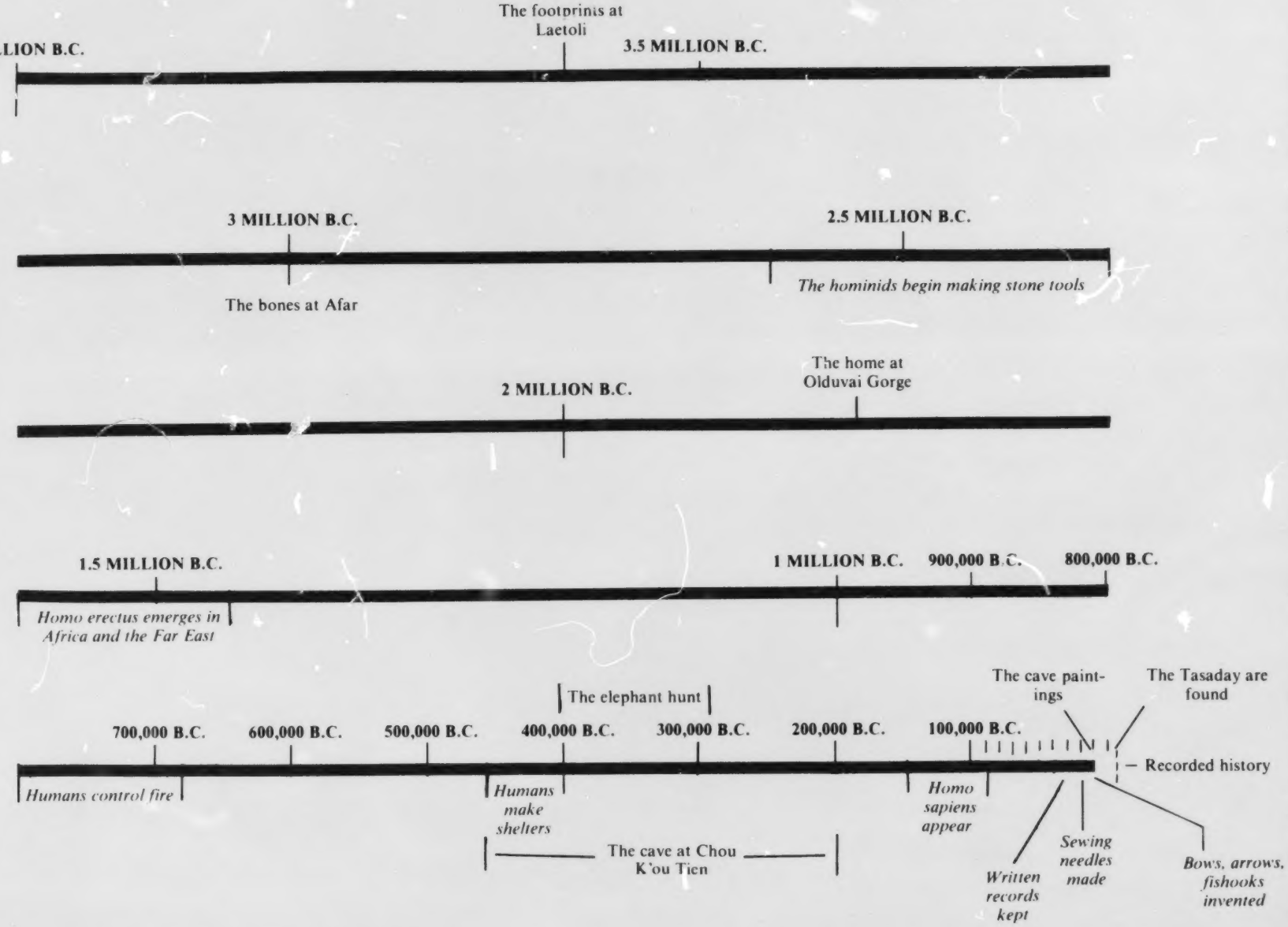
4. The hominids and *homo erectus* lived and worked in groups. Their patterns of behavior and group traditions are the roots of our rules and laws. How else do you think living in groups helped the human race?

Looking Back Through Time

The timeline on the opposite page shows human progress from hominid to *homo sapiens.* Use the timeline and your text to answer the following questions.

1. Where did *homo erectus* first appear?
2. When did *homo sapiens* appear?
3. When did people start using:
   a. artificial shelters?
   b. stone tools?
   c. bows, arrows and fishhooks?
   d. sewing needles?
   e. controlled fire?
   f. writing?
4. The timeline is 40 inches long. Each inch stands for 100,000 years. How much longer would the timeline have to be to show:
   a. the formation of the Rocky Mountains (about 75 million B.C.)?
   b. the first flower (about 135 million B.C.)?
   c. the first dinosaurs (about 230 million B.C.)?
   d. the formation of the earth and the solar system (about 4.6 billion B.C.)?

Before History



Shaping the World

Before 3 million B.C., the hominids probably used sticks and bones to dig for roots. They probably piled up branches as shelter from the wind. We'll never know for sure what tools they used. After all, there's no way of telling whether or not a stone was thrown at an antelope. It looks like any other stone.

At some point, the hominids chipped off pieces of stone to get a sharper cutting edge. They burned the ends of sticks to make them stronger. Tool-making was an important step in our history. Tools helped us feed and protect ourselves. They also left a physical record of human activity.

Traces of tool-making are called artifacts. An artifact is anything which has been shaped or altered by a person. The oldest known artifacts were made between 2 and 3 million years ago. They are volcanic rocks which were smashed apart to make cutting tools. You and I might look at the stones and think them just that, stones. When examined more closely, the trained eye can clearly see signs of use on the broken edges.

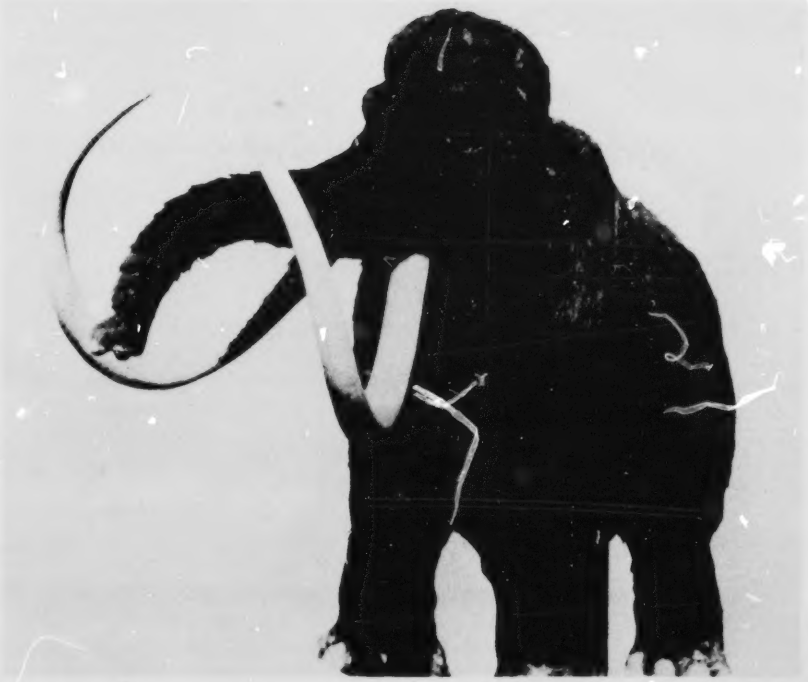
These first artifacts show that the hominids stopped using whatever stones they happened to pick up and began making more useful tools. In the same way, we think people began shaping their traditional patterns of behavior into more useful rules. This process was very slow.

Near Chou K'ou Tien, a city in China, archaeologists found a cave where *homo erectus* groups once lived. Layers of tools, bones and garbage show that the people who occupied this cave lived in the same way for almost 300,000 years. The Tasaday, too, say they have "always" followed their ancestors' rules.

Nonetheless, over time, humans do change their behavior. One reason is that their world changes. The Tasaday's ancestors had solved the problems of living in their isolated forest. Then, the modern world invaded that forest. The Tasaday had to rethink their ancestors' solutions. Would the traditions still work? Sometimes, the Tasaday stuck with the old ways, but often they accepted the new.

Changes in climate also alter behavior. If a long drought dries up all the streams, people change their diet from fish and frogs to birds and mice. If the weather gets colder, people find new ways of keeping warm. As they experimented with new tools and new ways of working together, prehistoric people faced challenges to their traditional rules.

At a dig in central Spain, archaeologists found evidence of one of these experiments. Hundreds of thousands of years ago, a few groups of *homo erectus* discovered a new way to catch elephants.



Courtesy, Dinamation International

The Elephant Hunt

Site: Torralba and Ambrona
Date: 400,000 B.C. to 300,000 B.C.
Geography: Torralba and Ambrona are two hills which mark an isolated pass in the Guadarrama Mountains, 100 miles northwest of Madrid, Spain.

In the early 1900's, a Spanish nobleman was digging up a hill looking for prehistoric elephant bones. He found lots of them. He also found something more exciting: stones, tusks, even wood, which had been shaped and sharpened by human hands.

What were the humans doing at Torralba Hill? It wasn't a home like the cave at Chou K'ou Tien. It was hard to believe the tiny humans could tackle the huge elephants. Perhaps the humans had found some dead elephants and stripped their carcasses. Or maybe there was no connection between the bones and the people's tools.

Puzzled by these questions, an American anthropologist, F. Clark Howell, began a more careful excavation of the site. Between 1960 and 1963, he slowly pieced together a startling theory. No doubt about it, the humans hunted and killed elephants at Torralba. To compensate for their small size, they used not only teamwork but great cunning.

In order to cross the Guadarrama Mountains in prehistoric times, animals had to pass through a valley between Torralba and Ambrona Hills. A large part of this valley was muddy marshland. The bones of more than 50 elephants were found here. Some were still lying where they'd died in the quicksand. Many of these bones bear marks from human weapons and tools. Clearly, the humans killed the elephants. But how?

They might wait a long time for a stray animal to lose its way and stumble into the mud. The hunters thought of a better plan. Traces of charcoal and ash show that certain parts of the valley, and only certain parts, were burned off. At the right moment, the people set the hills on fire, stampeding the beasts into the marsh.

Excavators found many small camp sites close to the marsh. Some of the elephant meat was cooked at these camps. The rest was cut into small pieces. Perhaps it was dried. Piles of chipped stone and bone shavings suggest that the people made some of their tools on the spot. They also used wooden weapons. A few fragments of these have survived.

The people at Torralba repeated their carefully-planned hunt and feast several times. The layers of tools, ash, and cracked bones at the camp sites show about ten separate hunts. The number, placement and contents of the camps suggest that the hunt was the work of several different groups who divided the kill equally.

The Torralba site has a special mystery. Near one of the camps, excavators found five long elephant bones and a tusk, carefully placed in a straight line. At first, scientists thought someone had laid them down as stepping stones across a marshy spot near the camp. But this camp was well out of the marshland. Why did someone lug these heavy bones uphill from the marsh? Why were they lined up so carefully? Nobody knows.

1. What did the people at Torralba eat? How did they get their food? What evidence at the site supports your theory?

2. What evidence at the site suggests that several different groups of people met to work together at Torralba? Was their cooperation successful? Why or why not?

3. What kind of shelters might these people have lived in? Is there any evidence to suggest they were afraid to leave their shelters after dark?

4. Do you think that, like the Tasaday, the people at Torralba had a tradition of not quarreling with each other? Did they need this kind of tradition? Why or why not?

5. What traditions might the people at Torralba have followed instead of "not quarrelling?" How else could they have promoted group harmony and co-operation during the hunt?

The Fallen Hunter

The events described in this short story never really happened. They are based on things we know about the people who hunted elephants at Torralba. However, we cannot be sure how they really behaved.

Human whoops and hollers mingled with the fearful trumpeting of mammoth beasts. Small Woman of Forest turned her back on the blazing hills and squatted to tend her campfire. The air was thick with smoke and sound. The small children had stopped chasing fireflies and were rolling quietly in the dirt nearby. It wouldn't be long now.

Since early morning, the Peoples of the Forest, the Hill, the Pond, and the Tall Grass had been sharpening weapons, gathering kindling and preparing torches. Finally, the scouts reported an approaching herd of elephants. The critical warning whisper was passed: "They're coming! Clear the flatlands!" Everyone scurried to the safety of the hills to avoid the stampede.

Just at dusk, the lead elephant lumbered into the pass. The Oldest Hunter waited until the entire herd was well inside the pass. Then the high, sharp signal cry echoed through the hills. Flames touched kindling and, in a moment, the entire landscape was ablaze. The terrified elephants charged away from the fire, straight across the flatlands and into the marsh. The animals' enormous weight held them trapped in the mud so the light-footed men and women could kill the huge beasts and strip their flesh.

Small Woman thought she counted six full grown elephants entering the pass. The Oldest Hunter would be sure that each People got at least one elephant, maybe more. Approaching chatter told Small Woman the first load of meat was arriving. She barked at the children for more firewood and sprang into action. It would take many trips from the marsh, many slices of the stone knife, many passes through the fire's smoke to prepare the meat of a whole elephant. There would be food for the winter, but it would be a long night.

The moon was setting when Small Woman took her first break from work. As she rubbed her tired back, she glanced at the People of the Forest gathered around the campfire. "That's strange," she thought. "I haven't seen Tall Woman for hours." Of all the People of the Forest, Tall Woman was usually the most active during a hunt.

The sharp, high signal cry of the Oldest Hunter suddenly sounded again against the hills. Everyone in camp stiffened with surprise. Small Woman felt a chill run down her spine. What could the Old Hunter want? The call was repeated. Bewildered, the People of the Forest answered the summons.

The other Peoples were already gathered at the campfire of the Tall Grass. Their excited voices softened as Small Woman and her People drew near. The Oldest Hunter, looking very grim, turned to face the approaching group. "People of the Forest," said the leader solemnly, "where is the Tall Woman?"

The People of the Forest exchanged worried glances. Small Woman finally responded. "We do not know."

"I know where she is," Thin Man of the Tall Grass interrupted. "She is on the flatland." He paused for effect. "She has been on the flatland since before the sunset."

"But the warning came at dusk!" Small Woman whispered.

"She did not hear the warning," Thin Man continued in a furious hiss. "She was busy gathering kindling. She heard nothing until the signal cry. Then the beasts were upon her and it was too late."

The Thin Man turned to address the entire crowd. "Small Man of the Pond was sent to pass the warning to us in the upper flatland. He stopped on the way to track a deer. He forgot his task and we were not warned. I was lucky; I climbed a rock to safety. The Tall Woman is dead."

The Small Woman opened her mouth to scream but no sound came out. Her People yelled for her. "Our best hunter! Our friend!" In sorrow and anger, they turned on the People of the Pond, who tightened into a small, muttering knot around the Small Man.

"Let me see this little human," said the Small Woman quietly as she stooped to pick up a stone.

The cold voice of the Oldest Hunter cut cleanly through the developing rumble. "If you raise your hand, Small Woman, there will be no hunt next year."

What happened next? Write an ending to this story.

The Development of Rules

1. How should the story of the fallen hunter end?

2. How many of the endings you suggested involve violence? How will the Peoples feel about each other if violence breaks out?

3. What non-violent endings did you think of? How will the Peoples feel about each other if the situation can be peacefully resolved?

4. Is it difficult to imagine a peaceful ending to this story? Why?

5. What traditions would have helped the Peoples through this crisis? Is there anything they can still do to solve the problem and save next year's hunt?

The Bergouen brothers in Les Tres Freres. On a rock above their heads is "The Sorcerer." Courtesy, Field Museum of Natural History, Chicago.

The Creation of the Beasts

Site: Le Tuc d'Audobert and Les Trois Freres
Date: 14,000 to 12,000 B.C.
Geography: Two limestone caves in the French Pyrenee Mountains. The caves are in a hillside on the estate of Count Henri Begouen.

One fine day, in the summer of 1912, three brothers decided to explore some caves on their father's country estate. The only way to reach the caves was by following a local river through a small hole in a hillside. They made a raft out of old gasoline cans. Lying flat on their stomachs, they gently floated through the tiny hole.

The river twisted and bent for a long way. In some places, the tunnel was so small the boys could barely slide through. Then, suddenly, the cavern widened. The boys pulled their raft up onto a small gravel beach and began to explore on foot.

They followed a narrow passage through one of the cavern walls into a large chamber filled with stalactites and stalagmites. At the end of the chamber, they reached a dead end. There was no way out but up a steep 40-foot tunnel. Who knew where that led?

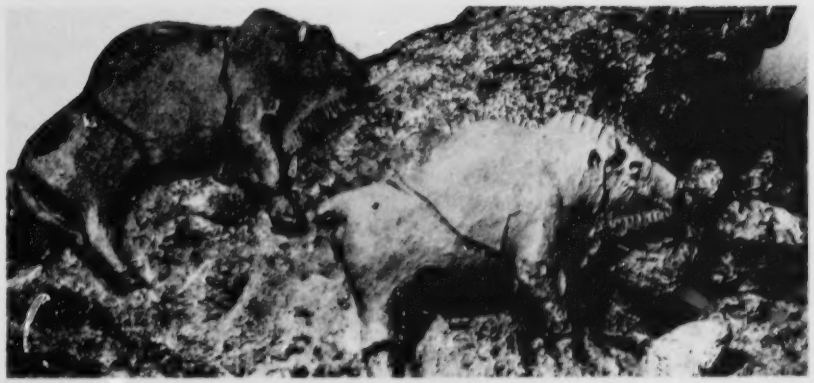
Feeling adventurous, one of the boys shimmied up the shaft. At first it looked like another dead end. He broke away a few stalactites and then shouted to his brothers. There was another narrow tunnel. Its floor was littered with fossilized bones.

Cautiously, the boys pushed forward until they reached a small round chamber. They paused, peering into the shadows, and then gasped. At their feet were two beautifully carved bisons, left leaning against a rock more than 10,000 years before. Later, the brothers found an entire cavern filled with prehistoric paintings. Among them was "The Sorcerer," possibly a picture of an ancient magician.

The people who left their art work in the French caves lived 12,000 to 14,000 years ago. They were *homo sapiens*, not *homo erectus*. The following short story is based on things we know about them.

Thinking Ahead

Andan of the Bison clan settled back against the grass. He tilted his head to feel the warm afternoon sun, then squirmed remembering this morning's chill air. Like a bad conscience, it reminded him that winter was coming. The young boy forced himself to sit upright and listen. But the voices around him droned on like bees. Absently, he sketched the outline of a reindeer in the dirt.



The bison statues. Copyright, Field Museum of Natural History, Chicago. Courtesy, the Museum and sculptor Frederick Blaschke, who made these replicas.

Andan knew the meeting was important. For the past three autumns, the hunt to stockpile winter food had gone badly. The vast herds of deer, ibex, and bison were leaving the hunting grounds. No one knew why. How could the Bison and Reindeer clans, who worked together during the hunt, make the animals return?

Everyone knew the answer. The best hunts always took place after the clans made their pictures. Making pictures helped the hunters prepare. It focused their attention on their prey. It drew the animals from their hiding places.

Though they hunted together, each clan usually made its own pictures. However, this year, because the animals were so scarce, the two clans would make their pictures together. They would make more pictures than ever before. Instead of simply carving them into cave walls, this year they would decorate them with colors.

Andan thought these were good decisions. The caves were cramped and stuffy so many people hated making pictures. But Andan loved the close air and flickering lights. Why didn't the people stop talking so they could begin the pictures? Again, Andan made himself listen.

"We don't need agreements," one of the men from the Bison clan was saying. "Our two clans have worked together for many years. There's been no trouble between us."

"Only on the hunt!" responded a Bison woman. "Not on the pictures. We must all agree on how to behave while we make the pictures." The woman spoke as if explaining a simple fact, like how to find water, to very small children. "Think what would happen if blood was shed."

"No one would do that!" a Reindeer woman burst out.

Several people laughed uneasily. They were very close. They'd known each other since birth. Still, each of the forty people sitting in the clearing could point to at least one person in the group who he or she didn't really trust.

"If blood spills near the pictures," a Reindeer man said slowly, "the animals will not come." The group muttered its agreement. "The magic will not work."

"Making agreements will not prevent bloodshed," the Reindeer woman objected. "It will prove we don't trust each other. We need common sense, not agreements."

"People have no common sense when they are angry," the man replied. "When I was a small boy, my older brother became angry with a man from the Antelope clan. Both he and the man are dead now. And we of the Reindeer do not meet with those of the Antelope."

"It is a waste of time," another Reindeer man said. "Let us prepare to make the pictures. If anything happens, we will know what to do."

"If anything happens it will be too late." Andan heard his own voice almost before he realized he was going to speak. Perhaps it was wrong of him to interfere, but he'd suddenly remembered something.

Last year, two Reindeer men had found him drawing sketches of his bear picture on a rock outside the cave. They'd laughed at his drawing. "It looks more like a beetle than a bear," they'd said. "If Bison people draw like that, they'll eat insects all winter instead of meat."

If looks could kill, those men would be long dead. Andan was only a small boy last year. He could do nothing but stamp his feet and yell. The men had only laughed harder. This year it was different. Andan was big enough to fight back.

Embarassed at the memory, Andan forced himself to continue. "We must protect the pictures. Let us make agreements." He paused. "And let the first be this: no one is to say anything at all about anyone else's pictures."

1. **What are the two clans discussing?**
2. **Why are the pictures so important?**
3. **Do you think the clans need to make rules? Or are their traditional behaviors enough? Explain your answer.**

4. **What are the dangers of too many rules? The wrong kinds of rules?**

The Clans Confer

Partly because of Andan's remarks, the Bison and Reindeer clans decided to make a list of agreements before they started the picture-making. Some of the people want to make as many rules as possible. Others want to be sure the clans only agree to rules that are absolutely necessary. Which side are you on?

Step 1: Begin by brainstorming a list of all the rules you think are important for the two clans. Include:

- Safety rules to prevent accidents;
- Rules about how people should behave to prevent fights and arguments;
- Rules about how to settle arguments without bloodshed or bad feelings.

Think, too, of rules that might be necessary because of the specific kind of work the clans intend to do. You will have five minutes to write down your list.

Step 2: After you stop brainstorming, discuss each rule on your list with the others in your group. Is each rule really important? Really necessary? Working together, your group must agree on a master list of no more than 5 rules. You may have to compromise to be sure the rules you think are important are included.

1. How many of the rules on the master list are safety rules? How many make it easier to cooperate? How many will settle conflicts?
2. Are there any rules which all three groups included on their lists? Which ones? Why do you think these were included?
3. Do the rules at your school serve the same purposes as the Clans' rules? How? What other purposes do they serve?
4. Do you think school rules are necessary? Would traditional behaviors work just as well? Why or why not?
5. In general, why do people make rules?

Unit 2 Hammurabi's Treasure: The Written Rule

Vocabulary

Babylon (n) An ancient city in Mesopotamia, on the eastern bank of the Euphrates River.

barter (v) To trade or exchange goods without the use of money.

(n) The act or practice of bartering.

cataract (n) A block or growth in the lens of the eye which causes partial or total blindness.

city-state (n) A city that governs itself (has its own laws, army, etc.) and operates like a nation does today.

cuneiform (n) A kind of writing used by people in ancient Assyria, Sumeria, Babylon and Persia. This writing was made by forcing the edge of a chisel into clay or stone. Because of this, all the symbols used are wedge-shaped, like the end of a chisel. The word cuneiform means "wedge-shaped" in Latin.

lex talionis (n) The legal principle of "an eye for an eye." Laws based on lex talionis punish criminals by making them suffer exactly what their victim suffered. The words lex talionis are Latin for "the law retribution."

Mesopotamia (n) An ancient land located between the Tigris and Euphrates Rivers in what is now Iraq.

motive (n) An impulse which causes a person to do something.

perjury (n) Lying under oath; giving false, misleading or incomplete testimony when one has sworn to tell the truth.

precise (adj) Definite; specific; distinct; sharply clear.

realm (n) A kingdom or empire.

Wide World Photos.

The Empire Builder

Mounds of rubble and broken brick bake in the Iraqi sun. You idly gouge the dirt with your toe and stoop to sift the sand through your fingers. Forty centuries ago, this exact earth was a firm, broad avenue. Each day, hundreds of people crossed this very spot. They lounged in the alleys between massive brick palaces. They marvelled at painted temples and gilded statues. They rested in cool hidden gardens. Once, this empty desert was Bablyon, the mightiest city on earth.

You squint at the horizon. A hot wind begins to whip the sand. There is no shelter left in this city. The wind and the sun and the water have won. Touch the crumbling dust which once was a powerful wall and think back...

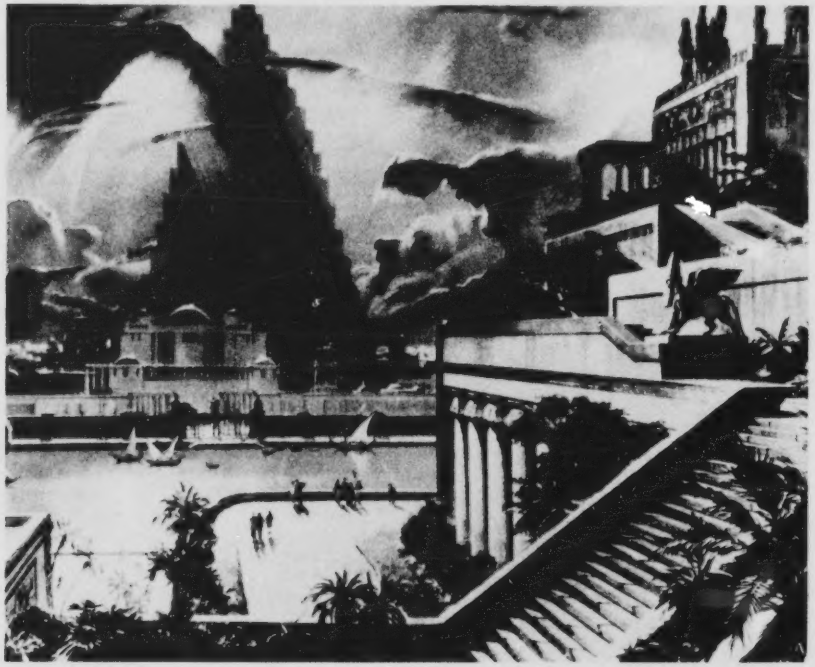
Dusk slowly filled the royal chamber as the old king suddenly rose from his throne. He dismissed his nobles with a flick of the hand. They bowed deeply as he crossed the room. Some of them smiled secretly. Now that King Hammurabi was gone, they could relax. It had been a long day.

The king, too, was tired. Slaves scurried around him as he passed down the long brick hallways of his palace. Along the walls, oil lamps sputtered to life. Deep in the heart of the palace, more slaves cooked an evening meal for the 1,000 soldiers in the king's personal bodyguard. Then the nobles must be fed. Finally, the slaves themselves must eat. Evening was a busy time in the palace.

Today, the king took no notice of the hustle and bustle around him. He was lost in thought. "I'm getting old," he muttered. "What will happen when I'm gone?"

The king stepped onto the smooth, cool tile of the great terrace which overlooked his city. He inhaled the soothing air of twilight. The sun slipped behind the vast plains to the west. Its gold and silver threads danced across the waters of the Euphrates River and sparkled on the roofs of Babylon.

Viewed from the great terrace, the city was an impressive sight. A huge marketplace teemed with shopkeepers folding away their cloth, putting lids on their spice jars, closing up for the night. Elaborate monuments, huge temples and brightly-painted houses lined the city's streets.



Wide World Photos.

The king glanced down his city's main road, through the massive gate in the first city wall, and across a broad grain field to Babylon's second wall. His eye rested on its large bronze gate. "Thirty years ago, when I became king," he thought to himself, "that gate was the limit of my power."

Thinking of his youth, the old man sighed. Things had seemed so clear then. He'd been so sure about what to do. How he'd planned! How he'd plotted! How he'd struggled! Looking back, the early years of his reign seemed like one long war.

At the top of this stella, the Sun God gives Hammurabi his Code, which is carved in its entirety below. Courtesy, Musees Nationaux (Louvre), Paris.

In those early years, many powerful cities dotted the wide plain between the Tigris and Euphrates Rivers which we call Mesopotamia. Each city had its own army, its own rulers and its own laws. Each was a separate political unit, like a nation is today. Because of this, Babylon and its enemies, cities like Assur, Mari and Lagesh, are usually called city-states rather than cities.

When Hammurabi took over Babylon about 1792 B.C., he wanted to unite all the separate city-states in Mesopotamia under one man's control — his own. He saw two ways of reaching this goal. The first was through politics. Hammurabi and the rulers of the other city-states lied and cheated each other, pretended friendship and then suddenly attacked, made treaties and immediately broke them. Politics was a tricky game, played without rules.

Hammurabi's second, and most important, way of taking power was by war. These wars were very brutal. The loser was usually completely destroyed. Imagine two masses of 50,000 men slowly advancing toward each other across a flat, dusty plain. When the signal comes to attack, each army sends a fleet of war chariots to drive a wedge through the ememy troops. Next come the archers, whose arrows fill the air like a cloud of dust. Finally, the orderly attack breaks into chaotic hand-to-hand combat.

Combat was fierce. Spear clashed against spear. Sword clashed against shield. Thousands of men died, but the fighting continued until one side or the other was destroyed. Losing soldiers expected no mercy. Those not killed in battle were executed by their captors or bound into slavery.

Once a city-state's army was defeated, the victor turned on the city itself. An Assyrian king, who lived many years after Hammurabi, described his attack on a city called Lachish like this:

> "I beseiged and captured the city by using a well-packed ramp, the blows of battering rams, and an infantry attack by means of breaches (holes in the city walls), mines, and scaling ladders. 200,150 people — old, young, male, and female — and their horses, mules, camels, cattle, and sheep without number, I brought away and counted as spoil."

If Hammurabi had lost just one of his wars, his people would have received this same brutal treament. But Hammurabi didn't lose. By the middle of his reign, Babylon was the center of a vast empire.

Leaning against his terrace wall, the old king sighed again. "If I'd only known." Hammurabi shook his head. "Building an empire is one thing. Running an empire is something else entirely."

King Hammurabi. Courtesy, Musees Nationaux (Louvre), Paris.

1. **Who is the king in the story? Describe his life.**
2. **Locate Mesopotamia on a map. Now find Babylon. What was this city like 3,800 years ago?**
3. **What is a city-state?**
4. **What was war like in ancient Mesopotamia?**
5. **In the story, the king has a problem. What do you think that problem is?**

The city-states that Hammurabi conquered had many things in common. Their ideas about economy — how goods, services and property should be owned and exchanged — were basically the same. So were their ideas about justice.

Long before Hammurabi's time, the early Mesopotamians believed that all the land, goods and people within a city-state belonged to the city-state's god. The priests or kings who represented that god controlled all the city-state's property. Ordinary people couldn't buy, sell or trade goods. Most things they ate, used or made were owned by their god.

This idea slowly changed. Individuals began to think of the tools they used, the crop they harvested, and finally the land they worked as their own, not their god's. When they found they owned extra spices, cloth, livestock or weapons, they began to trade their surplus products for goods they lacked.

This kind of trade is called a *barter* system. In a barter system, goods of equal value are exchanged without the use of money. By the time Hammurabi came to power, all Mesopotamia was busily bartering. Individuals bartered with others in their own city-states, with the citizens of other city-states and even with people in distant lands.

The people who lived between the Tigris and Euphrates rivers also shared the belief that justice is done when a person who causes an injury is punished by suffering the same injury. Today, this idea about justice is called *lex talionis* (leks tall-e-own-es) or an "eye for an eye."

The idea of *lex talionis* was widespread among ancient people who lived around the Mediterranean Sea. The ancient Hebrews, the ancient Greeks, and many others practiced this belief. It still influences our thoughts about law today.

Originally, *lex talionis* meant that when one person was harmed by another, the injured person could pay back the attackers in kind. Say Sally attacks Karen and breaks her leg. Then Karen or a member of her family has the right to break Sally's leg. If Karen can't find Sally, she can break Sally's brother's leg.

However, the Mesopotamians' ideas about *lex talionis* slowly developed, just like their ideas about owning property. By the time Hammurabi took over, two important changes were taking place. First, the injured person and his or her family were losing the right to punish the attacker. Instead, punishing wrong-doers was becoming the government's responsibility. Second, people were substituting payments of gold, silver or property for physical punishments.

Both of these changes made sense. The government was more powerful than most families. It was able to capture the wrong-doer and to make sure he or she received exactly the punishment deserved, no more and no less.

Though the old system of physical punishments satisfied people's desire for revenge, it did nothing to help the injured person. What if, instead of having her leg broken, Sally is forced to give Karen three young camels? Sally still suffers. Karen and her family are at least partially repaid for the trouble Sally caused.

1. According to the early Mesopotamians, who owned all the property within a city-state?
2. How had this idea changed by Hammurabi's time?
3. What is a barter system?
4. What is *lex talionis*?
5. By the time Hammurabi came to power, two important changes were taking place in Mesopotamia's ideas about *lex talionis*. What were they?

A cylinder seal from Mesopotamia (Ur III, 2112-2004 B.C.). Courtesy, Los Angeles County Museum of Art: Gift of Nasli M. Heeramaneck.

The Empire Ruler

Hammurabi was king of Babylon for 42 years. During the first part of his reign, he was a warrior. He conquered other Mesopotamian city-states and added them to his empire. He quickly realized that, though he could build his empire with armies, armies alone could not keep his empire running smoothly.

The Mesopotamian city-states shared basic beliefs, but each put those beliefs into practice in a different way. Each worshipped its own god. Each had its own way of making sure *lex talionis* was carried out. Each followed its own rules about bartering.

Hammurabi wanted the city-states to trade with each other. The differences between each city-state's practices made this difficult. A grain grower in far-off Lasha couldn't be certain of fair treatment from merchants in the empire's capital.

Questions about trade were always cropping up. What was a fair price for four baskets of barley — one or two sheepskins? If a barge filled with a merchant's clay pots sank in midstream, who suffered the loss — the merchant who owned the pots or the man who owned the barge?

Questions about justice also had to be settled. If a farmer's oxen strayed into a neighbor's field, how should the damage be repaired? If a man from one city-state struck a man from another, which city-state's rules should settle the fight?

Until very recently, most of the city-states had been deadly enemies. They didn't trust each other. They looked for excuses to fight. The tiniest disagreement could turn into another full-scale war.

In order to hold his empire together, Hammurabi had to find some way of ironing out these differences. From his letters, we know he attacked this job with enthusiasm and energy. He settled arguments between city-states. He built temples and monuments throughout his realm. He even rearranged the calendar so all Mesopotamia could agree on what day it was.

However, Hammurabi took one more step to unite his empire. He made all the city-states obey the same set of laws. Because he took this step, he has been remembered for the past 3,800 years.

1. Why was it difficult for Hammurabi to hold his empire together?

2. What did Hammurabi do to put his empire in order?

3. How did making all the city-states obey the same set of laws help Hammurabi rule his empire? Why was this such an important step?

The Counselors of Hammurabi

The laws Hammurabi wrote for his empire were based on his people's belief in *lex talionis*, "an eye for an eye." Can these ancient beliefs about justice be applied to life in the modern world? How would they work?

Imagine that you are a counselor to the mighty king of Babylon. He reigns today, in your community. He has asked you to help him write his laws. Each of the seven statements below describes a situation in which one person injures another. Create a law by completing each sentence and describing what should happen to the person who caused the injury.

Your laws should be fair. The wrong-doer should be punished. The injured person should feel that justice has been done, that he or she has received "an eye for an eye."

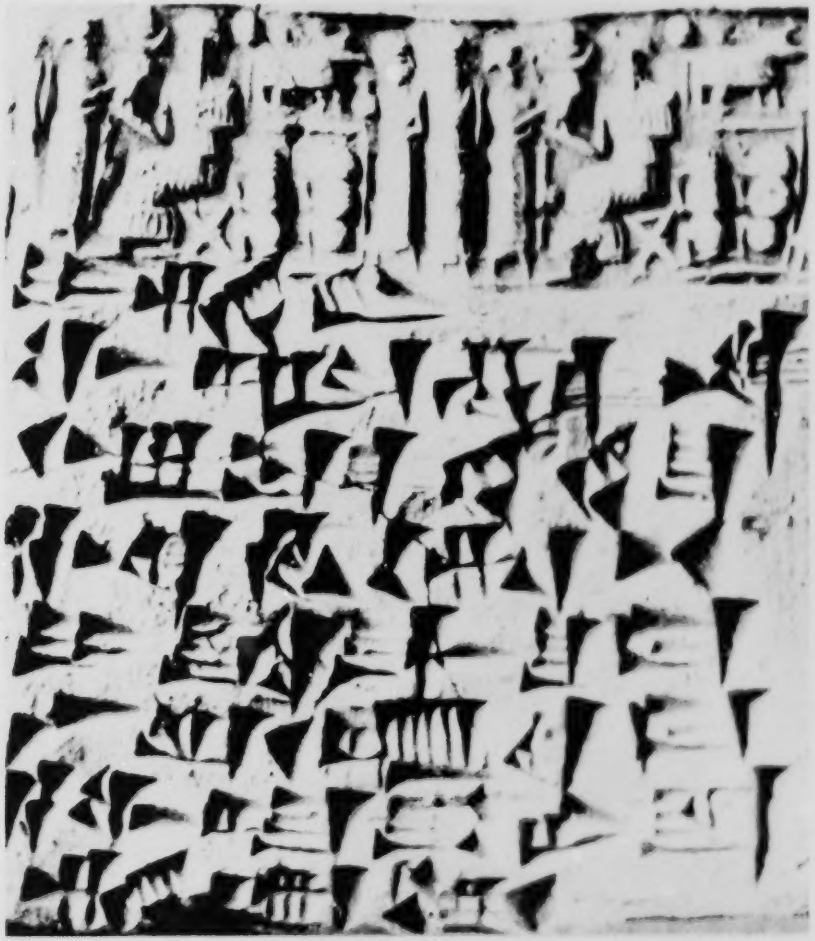
1. If one boy tears another boy's shirt in a fight, then _____
2. If a girl kicks a soccer ball through a neighbor's window and the flying glass cuts the neighbor's arm, then _____
3. If a boy tells a lie about his sister and, because of that lie, their parents punish the girl by taking away a month's allowance, then _____
4. If a babysitter leaves a young child alone in the living room for a long time and the child breaks an expensive lamp, then _____
5. If a girl has no bicycle and borrows one from a friend and, because she's careless, runs it into a tree, then _____
6. If a boy cheats on a test and gets an "A," then _____
7. If a young boy is killed in a car accident because the driver failed to see him chase a ball into the street, then _____

The Code

As you know, the word code can mean a secret language or a secret way of writing. In wartime, each army puts its messages in code to keep its plans a secret. But code can also mean any collection of rules and regulations. Hammurabi's laws are often called the Code of Hammurabi.

Hammurabi's Code was written in cuneiform (coo-nee-eh-form), a kind of writing that, to us, might seem like a secret language. Cuneiform was not written with paint or ink on a flat surface. Instead, people wrote cuneiform by driving a chisel into wet clay or stone. Because of this, all the symbols in the writing are wedge-shaped, like the end of a chisel. The word cuneiform means "shaped like a wedge" in Latin.

The English language can be written using about 64 symbols — the 26 capital letters, the 26 lower case letters, and about a dozen punctuation marks. Cuneiform writers used more than 2,000 different symbols, which made it hard to learn and to write. Records of business deals and other everyday matters were carefully carved onto tablets of wet clay. These tablets were then baked hard, like pottery, to preserve the writing. Very important records, like Hammurabi's Code, could be carved directly into hard stone.



A cuneiform envelope, made about 2,000 B.C. Note the difference between the picture-writing on top and the wedged-shaped cuneiform marks below. Library of Congress, courtesy of Dr. Tahsin Ozguc.

Hammurabi wasn't the first Mesopotamian to make laws. King Urnammu of Ur wrote a law code about 400 years before Hammurabi; so did King Bilalama of Eshunna. Urnammu's and Bilalama's codes were short lists of laws, only obeyed in one city-state. Hammurabi's Code was meant to help govern a vast empire. Copies of his Code, written on clay and stone, have been found all over Mesopotamia.

1. What is cuneiform?

2. You've already discussed why Hammurabi needed to make laws to control his empire. Why do you think those laws had to be written down?

I Set Truth and Justice Throughout the Land

The Code of Hammurabi begins with a long introduction. The king names all the city-states he's conquered. He boasts about his victories. It's clear his laws are meant for a mighty empire. Finally, he says:

> "The Great God Murduk commanded me to give justice to all the people of the land. I let them have good government. I set forth truth and justice throughout the land and made the people prosper. At that time, I issued the following decrees."

A list of 282 decrees, or laws, follow this statement. The laws are arranged in groups, so that all the laws about the same subject are listed together.

The first group of laws is about witchcraft. It tells how witches should be tried, judged and punished. The Babylonians were great believers in demons and the supernatural. It isn't surprising that Hammurabi thought his witch laws should be listed first.

The next groups of laws describe different kinds of crimes like kidnapping, perjury (lying in court), and stealing. Crimes against property were harshly punished. The penalty for almost any kind of stealing was death. People who bought stolen property were also killed.

Babylonian methods of execution were not pleasant. They included drowning, burning, cutting off the head, and running a sharp stake through the criminal's body. The number of laws against stealing and these severe penalties show how important owning property had become to the Babylonians.

Trade was also important in Babylon. Many of Hammurabi's laws described rules for trading, established prices, and set standards of workmanship. Builders in Babylon had to be especially careful. If a house collapsed and killed the owner's son, the builder's son was put to death. Barbers, doctors, salespeople, farmers, and

even slaves were told how to behave. Hammurabi even set wages for some jobs. A Babylonian shepherd was to receive 33 bushels of grain a year – no more and no less.

The Code says something about almost every aspect of Babylonian life. There are laws about marriage and families, about borrowing and lending money, about irrigating fields.

Hammurabi's Code ends with a stern warning. In a long curse, Hammurabi describes what will happen to anybody who doesn't respect his laws. "May the mighty gods of heaven and earth curse him," says the king, "and his children, and his land, his people, his nation."

1. **How many laws are there in Hammurabi's Code?**
2. **What are the laws in the Code about?**
3. **Why do you think Hammurabi's Code has such a long introduction? Why do you think he included a curse at the end?**

Babylonian Laws

Remember your laws from "The Counselors of Hammurabi" exercise. They were all written in the same form. "If such-and-such happens, in a particular way," these laws read, "then such-and-such shall be done." Almost all Hammurabi's laws were written in this way. The following four examples are taken from his Code.

- **If a man has stolen a child, he shall be put to death.**
- **If a slave has said to his master, "You are not my master," his master shall cut off his ear.**
- **If a man has rented an ox and caused its death by carelessness or beating, he shall give the owner another ox.**
- **If a man has opened his irrigation ditch for watering and the water has flooded his neighbor's field, he shall pay the neighbor an average crop in grain.**

Hammurabi didn't invent this way of writing laws. It was traditional in ancient Mesopotamia. King Urnammu's and King Bilalama's laws are also written in this style.

Hammurabi's laws may also seem unusual because they are so definite. The third law listed above only applies when someone rents an ox. What happens if a rented mule or a rented horse dies? Many of Hammurabi's laws are even more precise.

- **If a doctor has operated with a bronze scalpel on a noble for a serious injury and has caused his death, or has removed a cataract from a noble's eye with a bronze scalpel and has made him lose his eye, the doctor's hands shall be cut off. (A cataract is a growth or disease in the eye which can cause partial or total blindness.)**

This law only applies when the patient is a noble, when the doctor is operating on a serious injury or on a cataract, and when the doctor is using a bronze scalpel. If the doctor used an iron scalpel or if his patient was a slave or a trader, he couldn't be punished under this law.

Why is this law so precise? No one knows. Bronze is a much weaker metal than iron. Perhaps Hammurabi was warning doctors to use their best iron scalpels on their noble patients. Perhaps so many nobles were killed by doctors that the king thought a law was needed.

In the U.S., our laws are much more general. American laws which protect patients apply to all doctors operating on all kinds of people, with all kinds of instruments, for all kinds of diseases and injuries.

Hammurabi thought the nobles were more important than anyone else in his empire. In the U.S., we try to make our laws the same for everyone. Hammurabi's nobles, tradespeople, farmers and slaves all obeyed different laws.

There's another big difference between American laws and those of ancient Babylon. Many of our laws protect us from the government as well as from each other. They define our rights and responsibilities as citizens. Hammurabi wasn't concerned with his citizens' rights. Very few of his laws protect people from the empire's government.

1. **Give an example of one of Hammurabi's laws. Describe the form in which Babylonian laws were written.**
2. **Explain three ways in which the laws of Hammurabi's empire are different from U.S. laws.**

Secrets in Stone

Looking at Hammurabi's Code helps us understand Mesopotamian ideas about justice and law. It also tells us a lot about Babylonian society. For instance, the laws in the previous section show that:

Gudea, a governor and judge of Lagesh. This statue was made about 2,150 B.C. All rights reserved, Metropolitan Museum of Art, Harris Brisbane Dick Fund, 1959. (59.2)

- Babylonians practiced slavery and treated rebellious slaves harshly.
- They raised and rented oxen.
- They practiced irrigation. They felt each farmer should be responsible for keeping his own ditches and canals in order.
- They thought grain was valuable and used it to repay injuries.
- They had doctors who performed operations.

Imagine that you are an archaeologist, exploring the ruins of Mesopotamia in the hot, dry Iraqi desert. You've just found a new copy of Hammurabi's Code, carved into a piece of polished granite almost nine feet tall.

You are an expert at reading Babylonian cuneiform, so you have no trouble translating the code into English. Now comes the difficult part. The people you work for want to know what life in ancient Babylon was like. How did the Babylonians live? What did they do? What did they believe in and value?

Read the seven laws from Hammurabi's Code that are listed below. Each law will give you clues about life in Hammurabi's empire. Write down at least one fact about Babylon revealed by each law.

1. If one man has accused another of laying a nertu (a death spell) upon him, but the charge has not been proved, the man making the accusation shall be put to death.
2. If a son has struck his father, the son's hands shall be cut off.
3. If a man has hired a boat and boatman and loaded the boat with corn, wool, oil, dates, or anything else, and the boatman has been careless and sunk the boat, the boatman shall restore the boat and whatever was lost that was in it.
4. If a man borrows silver, he must pay 20% interest in return. If a man borrows grain, he must pay 33 1/3% in interest.
5. If a salesman fails to make a profit on the goods given him by a merchant, he must repay twice the amount.
6. If a life has been lost, the city or district governor shall pay one mina (a measurement) of silver to the dead person's relatives.
7. If a man owes a debt and has given his wife, his son, his daughter, or someone else as hostage for the debt, the hostage shall do work in the creditor's house. But in the fourth year, the creditor shall set the hostage free. (A creditor is someone who is owed money.)

Judgment in the Empire

Hammurabi sent copies of his Code to all the cities in his empire to be sure everyone in Mesopotamia knew his laws. But that wasn't enough. He also had to be certain everyone obeyed his laws. The king expected his governors and officials to help him with this enormous task.

In Hammurabi's Babylon, both women and men served as government officials. In addition to collecting taxes and controlling trade, these officials enforced the Code. They listened to facts about cases of law-breaking and decided who was telling the truth. They made sure their judgments were carried out.

Imagine you are the governor of Lasha, a city at the edge of the empire. Hammurabi sent you a copy of his Code. You are determined to see that Hammurabi's laws are obeyed in your city. Two cases are brought before you this morning. The same law was broken in each case:

"If a son has struck his father, the son's hands shall be cut off."

Read the facts of each case and write a paragraph stating your judgment about the case and at least two reasons why you reached that decision. Remember, the purpose of Hammurabi's Code is to establish "truth and justice throughout the land." Your judgments should also establish truth and justice.

Case #1

One morning, a well-to-do merchant sent his teenage son on an emergency errand. He told his son to find out exactly how much grain was left in his warehouse. The merchant had to sell this left-over grain quickly to avoid a big loss. He was meeting a possible buyer at a nearby tavern at noon.

Noon came and went but the boy did not return. The merchant hurried to the warehouse and questioned the guard. The guard said the boy hadn't been by all morning. When the merchant finally reached the tavern, late and out-of-breath, the buyer was gone. The son, however, was there, lounging at a table and laughing with his friends.

The merchant yelled at the boy. His son laughed at him "for getting so upset over nothing." Furious, the merchant grabbed his son's arm, intending to drag him home. The boy became very angry and hit his father.

Case #2

A local farmer uses his large family's labor to tend his fields and flocks. He keeps his children, nieces and nephews busy with chores from morning to night. When they don't perform their tasks perfectly, he loses his temper and beats them.

One afternoon, the farmer was watching his youngest son bind the cut leg of a young ox. Though the farmer had shown the boy how to do this correctly dozens of times, the boy was wrapping the leg too loosely. The wound would never heal and the ox would be lame for life.

The farmer shoved the boy aside and wrapped the wound himself. He turned to hit the boy for his mistake. The eldest son was watching from across the farmyard. He ran over to protect his brother. When the farmer continued to beat the boy, the eldest son hit his father.

1. In Case #1, what did you decide to do? Discuss your decision and the reasons behind it with your class.

2. What did you decide to do in Case #2? Again, compare your decision with the judgments of other students.

3. In the cases you judged, the two sons had different reasons for hitting their fathers. Hammurabi's law did not take these reasons into account. Do you think a person's motives (his or her reasons for doing something) are important? Should the law consider people's motives? Why or why not?

4. Arizona recently passed a law which says that if a person commits assault, then he or she must be sent to prison for five years. (Assault means either threatening to hurt somebody or carrying out such a threat.) Just after the law was passed, two drivers got into an argument after a traffic accident. One pulled out a gun and waved it at the other. Even though he quickly put the gun away and no one was hurt, the driver had committed assault. By law, he must go to prison. Do you think he should? Or should a judge be allowed to give him a lighter sentence because of special circumstances?

5. Situations similar to the two cases you judged could easily take place today. How would they be handled? What should happen to a child who hits a parent? Are your beliefs different from Hammurabi's? If so, why?

Warriors setting out for battle, from a Greek vase made in the 6th century B.C. (Neck Amphora, Amasis Painter; Attic B/F; H.: 0.258 D.: 0.189; 01.8026, Pierce Fund and Purchase of E.P. Warren.) Courtesy, Museum of Fine Arts, Boston.

Unit 3 Blood Feud: Making Rules Work

Vocabulary

Apollo (n) According to Greek mythology, the god of the sun, medicine, poetry, prophecy and music.

Athena (n) According to Greek mythology, the goddess of wisdom and all the arts.

feud (n) A long and bitter quarrel, argument or hostility between two people, two families, or two groups. A *blood feud* is a feud in which people are killed (blood is shed).

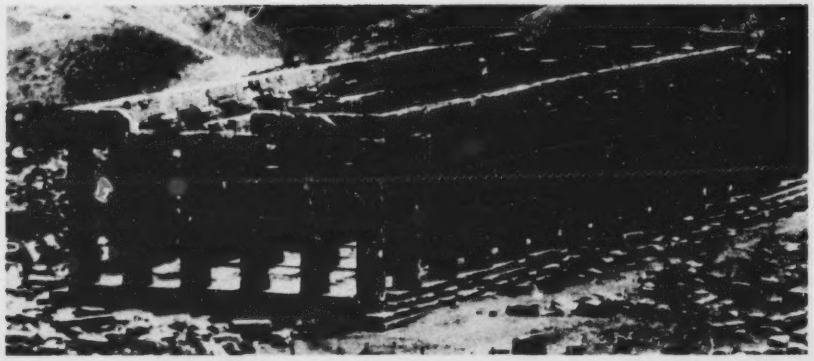
flourish (n) To grow well, to be in the prime of life, to succeed.

Furies (n) According to Greek mythology, three winged goddesses who pursue and punish wrong-doers.

justify (n) To prove right, good, just or valid.

retribution (n) Repayment; a punishment which is equal to or the same as the crime for which the punishment is administered.

tribunal (n) A seat of justice. A Greek tribunal was a group of citizens who met to hear and judge legal cases.



Wide World Photos.

Blood Feud

What is justice? Many people would answer this question by saying that justice is retribution, "an eye for an eye." Hammurabi based the laws of the Babylonian Empire on this idea. The Romans called it *lex talionis* and used it in their laws. Dozens of ancient civilizations, including the Hebrews and the Greeks, thought "an eye for an eye" was justice.

"An eye for an eye" means that if Joe kicks John, it's only fair that John gets to kick Joe back. But what if Joe *kills* John? Obviously, John can't kill Joe back.

According to "an eye for an eye," it is fair for someone else to kill Joe. In fact, under "an eye for an eye," John's friends and family must kill Joe or there is no justice. So John's friend, Sam, kills Joe. Then Joe's friend, Harry, kills Sam. You can see where this leads: a lot of people are dead and not much has been settled.

This situation, a series of murders for revenge, is called a blood feud. Though most people admit blood feuds are senseless and stupid, history is filled with them. Shakespeare's play, *Romeo and Juliet,* is about a blood feud between the Capulet and Montague families in Renaissance Italy. The Hatfields and the McCoys are famous feuders from the American South.

The story you are about to read tells of a blood feud, not between two families but within one family. It is set almost 3,300 years ago. It comes from an ancient Greek play, called the *Oresteia* (or-res-TIE-uh), which means "the story of Orestes" (or-RES-tease).

We usually think of plays as just entertainment. The Greeks used their plays, their songs, and all their art to honor their past, look at their problems, and rejoice at the solutions they found. The *Oresteia* tells of a royal Greek family that was split in two by murder and revenge. It also looks at how the Greek people settled this family's quarrel. Most important, it shows how the Greeks kept "an eye for an eye" from becoming an excuse for endless killing.

The Story of Orestes

When the Trojan War began, Orestes (or-RES-tease) was a very small boy, the only son of Agamemnon (ag-uh-MEM-non), the king of Argos. He lived in a huge stone palace with his mother, Clytemnestra (cli-tem-NES-tra), and his two older sisters, Iphegenia (if-eh-JEAN-ya) and Electra (ee-LEC-tra).

Even though he was very small, Orestes could tell something was the matter at home. The palace was full of strange men with angry voices. They were arguing about Orestes' aunt, Helen. Some men said she had been kidnapped by a prince

from a rich city across the ocean, a city called Troy. Others said she ran off with the prince. Agamemnon (ag-uh-MEM-non) decided to fight the Trojans and bring Helen back to Argos.

Agamemnon sent messengers to all the Greek cities, telling the kings and warriors to meet at a place by the seaside called Aulis (OW-less). There the Greeks assembled great warships and prepared to sail to Troy and attack the city. Finally, the ships were ready, but they could not sail. There was no wind.

The warriors waited on the beach at Aulis for many days, and still there was no wind. As the days turned into weeks, the men became more and more impatient. Colchas (COAL-chus), their priest, finally talked to an oracle (a person who could talk to the gods). Why was there no wind?

The oracle gave back an awful answer. "There is no wind because Poseidon (po-SI-dun), the god of the sea, is angry with Agamemnon. Poseidon will not let the Greek ships sail until Agamemnon offers him a sacrifice."

"What sacrifice does the god want?" asked Colchas.

"The only sacrifice Poseidon will take from Agamemnon is Iphegenia (if-eh-Jean-ya), his eldest daughter."

Agamemnon was horrified. If he obeyed the oracle, he must kill his own daughter. If he didn't obey, the Greek ships would not sail. In the end, he decided that his duty as a king was more important than his duty as a father.

He sent a message to his daughter telling her to hurry to Aulis because he had arranged a wonderful marriage for her. When Iphegenia and her mother arrived, all dressed and ready for the wedding, Agamemnon handed his daughter to Colchas, the priest. Iphegenia faced the knife bravely. The moment she was dead, great winds filled the sails of the Greek ships. Agamemnon and the other warriors hurried aboard and sailed off to the Trojan War.

Clytemnestra never forgave her husband for murdering their child. She returned to Argos and ruled the city well, but she missed her oldest daughter. During this time, Orestes was away at school. Electra never talked to her mother very much. As the years slowly passed in the empty palace, Clytemnestra grew to hate her husband. She wanted revenge, "eye for an eye."

The Trojan War lasted ten long years, so Clytemnestra had plenty of time to work out her plans. When word finally came that the war was over and Agamemnon's ships were in the harbor, she was ready. She listened to the townspeople gossip about the many riches the warriors brought back, about the Trojan princess who was her husband's personal slave. Every word made her more angry. It seemed

Electra, weeping at her father's grave. Detail from a 4th century vase. Courtesy, Musees Nationaux (Louvre), Paris.

that Agamemnon had murdered his own daughter for gold, silver and a foreign slave.

Still, Clytemnestra welcomed her husband at the city gates with open arms. She led him up a carpet made of royal purple cloth and into the palace, where she'd prepared a bath for him after his long journey. Agamemnon relaxed. He was home at last.

As Agamemnon stepped into his bath, the palace doors slammed shut. Cyltemnestra sprang into action. She dropped a heavy hunting net over her husband to keep him from struggling free. She picked up his own battle sword and stabbed him again and again. Then she killed the Trojan princess.

Clytemnestra ran into the streets, shouting that Agamemnon was dead. She had already chosen a new husband, a man named Aegisthus (uh-JIS-this). Together, they would rule Argos.

The townspeople were terrified, but what could they do? Agamemnon was already dead. Maybe, if they accepted the new rulers peacefully, the matter would be settled and the killings would stop. One person in the city couldn't accept the new rulers: Clytemnestra's own daughter, Electra.

Electra had loved her father very much. When he was killed, she almost went mad from grief. She couldn't stand the thought that his murderers would go

unpunished. She, too, wanted "an eye for an eye." She had to do something, but what?

She couldn't strike back. Her mother was constantly surrounded by palace guards. Anyway, Electra had no weapons. She thought Orestes might help her, but she didn't know where he was. He might even be dead. Electra spent her days weeping at her father's grave. She prayed that the gods would do something to avenge Agamemnon's murder.

The god Apollo heard her prayers. Apollo knew where Orestes was: hiding in Egypt. The young man knew that his mother had murdered his father and was afraid she might try to kill him, too. Apollo appeared to Orestes in a dream. The god told Orestes he must return to Argos, hunt down his mother and her new husband, and kill them. "Gore them like a bull," said Apollo, "or pay their debt with your own life, one long career of grief."

One morning while Electra was putting wreaths and honeyed oil on her father's grave, she noticed the earth had been disturbed. Someone else had been there! Who? Certainly not her mother! And the townspeople were all afraid to go near the place.

She looked closer and found a lock of hair which someone had placed on the grave. It matched her own. She turned around and saw her brother standing in front of her. The brother and sister rejoiced at seeing one another after so many years. They also made a plan to right the wrongs their mother had done.

Orestes approached the palace. He said he was a stranger from Egypt, a friend of the Prince Orestes. He wanted to speak to the king. He had news of Orestes — bad news. Aegisthus (uh-JIS-this) came running from the palace, hoping to hear that Orestes was dead. Suddenly, Orestes announced who he was and killed Aegisthus.

Alarmed by the horrible screams of her second husband, Clytemnestra came running out of the palace. When she saw the young man standing above Aegisthus' dead body, she knew at once that Orestes had returned. She also knew he was going to kill her. She begged him to listen to her side of the story. She tried to explain how Agamemnon had murdered Iphegenia, but Orestes refused to listen. He dragged Clytemnestra into the palace and killed her with his sword.

The townspeople breathed a sigh of relief. At last the bloody story was over. The wrong had been righted. The murderers had been murdered. There was no one left to kill. Or was there?

As Orestes left the palace, he heard an ugly crackle and hiss behind him. He turned and saw a flock of bent old women, draped in tattered, rotting black cloth, settling on the ground all around him. Their arms and legs were twisted. They had slimy, grey wings. Their skin was scaly and flaking. Hissing snakes swarmed in their matted, greasy hair. Blood dripped from their beady, yellow eyes. The townspeople backed off in horror. Orestes screamed and started to run.

These creatures were the Furies — ancient Greek goddesses, as powerful as Apollo or Athena or even Zeus. At the beginning of time, these goddesses had been given the job of punishing men and women who broke the ancient rules. The most important of these rules was that you couldn't kill people who were related to you by blood. If you broke a rule, the Furies would swoop down on you and chase you until you died from exhaustion.

The Furies didn't chase Agamemnon because he killed his own child. According to the ancient rules, this was his right as a parent. They didn't chase Clytemnestra because she killed her husband. A husband is a relative-by-marriage, not a relative-by-blood. But Orestes had murdered his mother — the closest of all blood relatives. According to the ancient rules, this was the worst of all crimes.

Orestes tried to escape, but escape was impossible. Everytime he stopped to rest, the Furies were upon him, their foul breath and cracking voices filling the air. He couldn't eat. He couldn't sleep. He begged Apollo for help, but Apollo was not powerful enough to stop the Furies.

In desperation, Apollo turned to his sister, Athena. She was the Goddess of Wisdom. Surely she could think of some way of satisfying the Furies and saving Orestes. Perhaps she could even think of a solution that would prevent this kind of problem from ever happening again.

1. **What does retribution mean?**
2. **Who started the blood feud in the story of Orestes?**
3. **Clytemnestra felt a great wrong was done when Iphegenia was killed. What could Clytemnestra have done to right this wrong besides taking "an eye for an eye?"**
4. **Almost everybody in the story of Orestes was obeying the law. What law did Clytemnestra obey? What law did Orestes obey? What law did the Furies obey?**
5. **The story of Orestes is a Greek myth. Do you think what happens in this story could really happen? Why or why not?**

Council of Olympus

Imagine that you are a Greek god, living on Mount Olympus. Apollo and

Athena don't know what to do. They've asked you to help them think of some way to settle the quarrel between Orestes and the Furies. They also want to find some way of settling these quarrels in the future.

Orestes' family has almost been wiped out. If you can't keep the Furies from killing Orestes, there won't be anyone left to rule Argos. But blood feuds are a problem all over Greece. Whenever someone feels wronged, their first reaction is to go out and get "an eye for an eye." Often, innocent people, like the Trojan princess, get killed just because they're in the wrong place at the wrong time.

The law itself isn't really the problem. Every one in Greece believes that "an eye for an eye" is justice. Everyone also believes that it's wrong to kill your relatives. The problems start when people put "an eye for an eye" into action and try to see that justice is done.

To solve this problem, you and the other gods have decided to hold a council and brainstorm. Brainstorming is a way of coming up with new ideas to solve problems. It works because, when you're brainstorming, you just think up ideas. You don't stop to decide whether they're good or bad.

Who in your group writes the fastest and most clearly? Appoint that person Council Recorder. When your teacher says "Go," start brainstorming. Think of as many ways to settle the argument between Orestes and the Furies as you can. Don't stop to discuss the ideas. Don't decide whether they're good or bad. Just have the Council Recorder write them all down.

You will have five minutes to come up with all the ideas you can. You must think of at least four. As a hint, start by thinking of ways you solve arguments at home or with your friends. But remember, you're a god. You can do anything you want: stop time, change people's minds, create new creatures, anything.

The theater of Dionysus at Athens, where the *Oresteia* was first produced. Wide World Photos.

The Wisdom of Athena

The Furies were very angry. Orestes was very upset. Obviously, Athena's first job was to calm everyone down. She talked quietly with the Furies and listened to their side of the story. Then she spoke with Orestes and heard his defense. Though both sides were willing to talk about the problem, each side really believed it was right. Athena knew that just talking wasn't going to change anybody's mind.

But the Goddess of Wisdom had a plan, a plan that just might work. She asked both sides if they'd let her settle the argument and obey whatever decision she reached. Orestes agreed immediately, but the Furies hesitated. Athena held her breath. If they said no, she'd have to use force. She wasn't sure she'd win a battle with the Furies. However, finally, the Furies said yes. Since Athena had always treated them with respect, they would respect her decision.

Athena then asked some people from the crowd to step forward and sit down. She gave each citizen a small white stone. She placed two huge jars in front of the group. She asked Orestes to stand next to one jar and told the citizens it was called the "Jar of Outrage." She gathered the Furies around the other jar, the "Jar of Unmercifulness."

Then, Athena revealed her plan. Orestes and the Furies, she explained, would each have a chance to tell the citizens what they did and why. After both sides told their stories, each citizen would decide who was right and drop the white stone into that side's jar. Athena would count the stones in each jar. If they were even, Athena would cast the deciding vote.

1. How did Athena decide to settle the argument between Orestes and the Furies?

2. Before explaining her plan to Orestes and the Furies, Athena took two important steps to be sure her plan would work. What were these two steps?

3. Is Athena's plan different from your class' solution? How? Which plan do you think is better? Why?

The Decision

The citizens of Argos listened carefully as the Furies and Orestes re-told the story of the blood feud. After hearing all the arguments, the citizens cast their stones. When Athena counted the stones, she found an equal number in each jar. Athena could not avoid it. Her vote would decide the issue.

Athena never had a mother. According to legend, she was born, fully-grown, from her father's skull. Because of this, she felt fathers were more important than

mothers. The choice between a father and a mother is an awful decision, she admitted, but Orestes had to choose. Athena thought the boy made the right choice. Orestes, she announced, was justified in avenging his father's murder.

The Furies immediately began to croak and hiss. This decision went against all the ancient rules. They'd spent their lives defending those rules. How could they accept this decision?

Athena reminded them that they'd agreed to accept her decision. She patiently explained that times were changing. Her plan had worked. From now on, whenever Greeks got involved in a serious quarrel, one they couldn't solve themselves, both sides would explain their cases to a group of citizens. The citizens would decide who was right. The citizens would also see that the people who were wrong were punished. The Furies weren't necessary anymore.

Machinery used during Athenian tribunals. The *kleroterion* was used to select tribunal members. The two jugs formed a waterclock, used to time speeches.

"That's great for you and great for Greece," croaked one of the Furies, sullenly. "But what about us? What are we going to do for the rest of time?"

Athena smiled. "Look," she said, "you've spent your whole lives being hated by everybody because you had to run around punishing people after they got into trouble. What if you use your power to keep people from getting into trouble in the first place? Why don't your spend your time preventing fights?"

After much hissing, the Furies finally agreed. Athena made them the caretakers of civil peace in Greece.

1. **What did the citizens and Athena decide about Orestes' case?**
2. **Do you think Athena and her citizen-judges made the right decision? Why or why not?**
3. **The Babylonians also believed in "an eye for an eye." Imagine Orestes' case had been decided by a judge in Hammurabi's Babylon. Do you think the outcome would be different? Why or why not?**
4. **Do you think Hammurabi would have approved of using citizens instead of a government official to make decisions about cases? Why or why not?**
5. **The Greeks used the myth of Orestes to explain and celebrate a change in their ideas about justice. Before Orestes, they believed that individual people could put "an eye for an eye" into action all by themselves. How did their ideas change?**

The Tribunal of Athens

According to legend, Orestes lived during the Trojan War. Historians now think this war was fought about 1300 B.C. (more than 400 years after Hammurabi lived). At that time, the land we now call Greece was divided into many different city-states. Orestes' kingdom, Argos, was one of these cities.

The play, the *Oresteia,* was written 800 years later. By that time, new city-states had come to power in Greece. The most important of these was Athens. There, poetry, trade, medicine, architecture and many other skills flourished. The *Oresteia* was written by an Athenian named Aeschylus (ES-chi-lus) who lived between 525 and 456 B.C.

The city of Athens was dedicated to the goddess Athena. It's not surprising, then, that the goddess' plan for settling quarrels between citizens was still in use.

When one Athenian felt he'd been wronged by another, he took his complaint to a special group of citizens, called a *tribunal*, and asked them to judge it.

Only Athenian citizens — free males, over 21 years old — could take part in a tribunal. Most tribunals only had a few dozen members. However, as many as two thousand men might decide a really important case. All the tribunal members had an equal vote in the decision. There was no judge, only a foreman who made sure everything went smoothly.

When the tribunal was ready to hear a case, the person making the complaint and the accused person appeared. There were no attorneys. Each man spoke for himself. Each had a short time to tell his side of the story. Then, each of the tribunal members cast his stone, either for the accused man or for the accuser.

If the accused man received the most votes, the tribunal set him free. But if he lost the voting, the tribunal had to make a second decision. How should the guilty man be punished? The convicted person and his accuser each suggested a punishment. The tribunal members voted one more time to decide which of the two punishments was the most fair.

Decisions made by the Athenian tribunal were final. If they decided a man was in the wrong, he could not appeal that decision. If they ordered a punishment, it had to be carried out.

The Athenians felt their tribunal system was fair and just. They thought it settled arguments, prevented feuds and enforced the law. Do you agree? Do you think a tribunal system would work today? Before answering these questions, use the tribunal to settle an argument.

1. **According to legend, when and where did Orestes live?**
2. **When and where was the *Oresteia*, the play about Orestes' life, written?**
3. **Who was allowed to take part in Athenian tribunals?**
4. **How did tribunals decide if an accused person was innocent or guilty?**
5. **How did tribunals decide punishments for the people they convicted?**

A Modern Feud

The Oakville Project has some great streets for racing cars. They are wide and straight, with a couple of very sharp turns. The guys from the next neighborhood over, the Twelfth Streeters, liked to sneak into Oakville and race around. The Oakville Guys gave them some trouble every now and then. But, so far, nothing serious had happened.

One Saturday afternoon, two Twelfth Streeters, Raphael and Oscar, headed over to Oakville to drive around and kill some time. Some Oakville Guys, who felt like fooling around, noticed Raphael's car. When Raphael and Oscar pulled up to the light at 7th and Cooper, where the good streets start, a car full of Oakville Guys pulled up next to them. One of the guys, Denny, leaned out of the window and yelled. When the light changed, the race was on.

As the two cars squealed around the first corner, Oscar noticed something out of the corner of his eye. He yelled for Raphael to stop. Raphael slammed on the brakes. He wasn't fast enough. He hit an eight-year-old boy who was chasing a football into the street.

Raphael and Oscar didn't wait to find out exactly what happened. They had a bad feeling about it. As their car sped away, they could hear Denny yelling after them. The boy they'd hit was his brother and he was dead.

Later that night, Raphael and Oscar were sitting on the porch of a friend's house, taking a break from the party inside. A car pulled up to the curb. The guys inside it yelled that they were from Oakville. They had a message for Raphael.

Raphael felt stuck in a slow motion movie. A gun barrel flashed from the back seat. He heard a crack, then another. As he fell to the steps, badly wounded, Raphael saw Denny wave the gun. More shots were fired and the car sped off.

Oscar decided that enough was enough and went to the tribunal. He asked them to punish Denny for shooting Raphael. If the tribunal won't take action, Oscar says the Twelfth Streeters will take their own kind of action. On the other side, Denny claims Raphael killed his brother and deserves everything he got. He also says that if the Twelfth Streeters want him, they know where to find him. The Oakville Guys will be ready.

Wrongs and Reasons Worksheet

In the story "A Modern Feud," both sides did things that were wrong. However, both sides feel that they had good reasons for doing those wrong things. Fill in the chart below. Identify three wrongs done by each side and write them in the appropriate spaces in the first column. Then, in the second column, write a reason the group might use to justify or excuse having taken that wrong action.

OAKVILLE GUYS (Denny and his friends):

WRONG #1	REASON #1
WRONG #2	REASON #2
WRONG #3	REASON #3

TWELFTH STREETERS (Raphael, Oscar and their friends):

WRONG #1	REASON #1
WRONG #2	REASON #2
WRONG #3	REASON #3

The Tribunal

General Instructions

1. When the Oakville Guys and the Twelfth Streeters are ready to present their cases, the tribunal foreman will distribute one voting marker to each tribunal member and call the tribunal to order.

2. First, Oscar will speak. He will have exactly three minutes to explain why Denny was wrong to shoot Raphael. At the end of three minutes, the tribunal foreman will tell Oscar to stop.

3. Next, Denny will speak. He, too, will have three minutes to speak. He will defend his actions and explain why shooting Raphael wasn't wrong. The tribunal foreman will stop Denny at the end of three minutes.

4. Each member of the tribunal will decide who he or she thinks is right. Members of the tribunal may not discuss the case before they vote. Once his or her decision is made, each member of the tribunal will go to the front of the room and place his or her voting marker in the appropriate box: in Oscar's box, if he or she thinks Oscar is right; or in Denny's box, if he or she thinks Denny is right.

5. After all the tribunal members have voted, the tribunal foreman will count the votes in each box. Whichever side has the most votes is the winner.

Instructions for the Oakville Guys

In about ten minutes, Denny has to appear before the tribunal. He will have three minutes to convince them that, considering all the circumstances, shooting Raphael wasn't wrong.

1. Pick someone to play the role of Denny and act as spokesperson for your group.

2. Using your Wrongs and Reasons Worksheets, pick the two most important things your side did wrong. Make a list of all the reasons which justify or excuse those two actions.

3. Again, using your worksheets, make a list of all the things the other side, the Twelfth Streeters, did wrong. Try to think of reasons why these actions cannot be justified and should not be excused.

4. Using the two lists you've made, write an outline of what Denny should say during his three-minute presentation. Be sure you put the most important things at the top of the list, in case he runs out of time.

5. Finally, decide how best to complete this sentence: I was right to shoot Raphael because _____
Write the completed sentence at the top of Denny's outline, so it's the first thing he says to the tribunal.

Instructions for the Twelfth Streeters

In about ten minutes, Oscar has to appear before the tribunal. He will have three minutes to convince them that, considering all the circumstances, Denny was wrong to shoot Raphael.

1. Pick someone to play the role of Oscar and act as spokesperson for your group.

2. Using your Wrongs and Reasons Worksheets, pick the two most important things that Denny and the Oakville guys did wrong. Try to think of reasons why these actions cannot be justified and should not be excused.

3. Again, using your worksheets, pick the two most important things your side did wrong. Make a list of all the reasons which justify or excuse those two actions.

4. Using the two lists you've made, write an outline of what Oscar should say during his three-minute presentation. Be sure you put the most important things at the top of the list, in case he runs out of time.

5. Finally, decide how best to complete this sentence: Denny was wrong to shoot Raphael because _____
Write the completed sentence at the top of Oscar's outline so it's the first thing he says to the tribunal.

Instructions for the Tribunal Members

Was Denny right or wrong to shoot Raphael? In a few minutes, you'll have to decide. Once the tribunal starts, you won't be able to discuss the case. Take a moment now to decide where you stand on the general issue of "an eye for an eye."

Read the following statements and discuss them with your class. Use the questions below as a guide.

Statement #1: "Everybody's responsible for protecting the people they care about."

Statement #2: "If somebody hurts you, you've got to fight back."

1. Do you basically agree with these statements? Why or why not?

2. Do you think there are limits to what people should do to protect those they care about? If so, what are the limits?

3. Do you think there are limits to what people should do to fight back? If so, what are the limits?

The Tribunal's Judgment

1. Do you think the tribunal made the right decision?

2. Do you think the tribunal's decision was fair? Why or why not?

3. Will the losing side accept the judgment or will they continue the feud? Why?

4. Rules help people solve conflicts without bloodshed. Just like Orestes and his mother, both the Oakville Guys and the Twelfth Streeters believed in the same rule: "an eye for an eye." The rule alone couldn't solve the gangs' conflict. What else did they need?

5. Do you think rules can work without some way of applying or enforcing them? Would Hammurabi's Code have worked if his officials didn't make judgments about the law?

6. The tribunal is only one of many processes for applying laws. What other legal processes can you think of? What processes are used in the U.S. today?

Unit 4 Merry Old England: Picking the Best Process

Vocabulary

abbey (n) A place where monks or nuns live and work; a monastery or convent. An abbot is the man in charge of a monastery.

abide (v) To stand by; to stay with; to await; to continue or endure.

feudal (adj) Of, like, about, or belonging to feudalism. Feudalism was a political and economic system used in Europe between 800 and 1400 A.D. *Feudal Europe* means Europe during the time people lived under feudalism.

medieval (n) Of, like, about, or belonging to the Middle Ages. The Middle Ages were the years between 500 and 1450 A.D.

ordeal (n) A difficult or trying experience; an experience that causes pain or suffering.

parchment (n) A piece of sheep or goat skin, used to write or paint upon.

perjury (n) The act of lying under oath; or telling a lie or misleading someone when you have sworn to tell the truth.

shire-reeve (n) An officer appointed by the king of England to represent him in a county. The word *shire* means county. The word *reeve* means officer.

writ (n) An order from a person in authority which has been written down.

Legal Processes

People developed rules to help them live and work in groups. Gradually, these rules were turned into written laws so they would be remembered and obeyed. However, to make rules work, people need more than their written laws. They also need some regular way of enforcing and making judgments under their law. Methods for doing this, for applying written rules, are called legal processes.

Hammurabi used a legal process to make his Code work throughout his Empire. His officials judged cases and supervised punishments. During their golden age, the Athenians' most important legal process was their tribunal. In this lesson, you'll look at other legal processes, those used by people in England during the Middle Ages.

None of these processes are perfect. Each has advantages and disadvantages. Decide for yourself which seems most fair, most kind, most sensible, or most workable. But remember, the perfect legal process, like the perfect law, hasn't been discovered yet. It's an ideal. The search for the best way of applying laws continues today.

The month of September from *The Hours of the Virgin*, a Flemish breviary, c. 1515. (MS 399, ff. 10v-11) Courtesy, Pierpont Morgan Library, New York.

Dunbar Field

Yesterday, King Stephen received a complaint from the Abbot of Chertsey about a problem in a village near the Abbey. His Abbey had inherited a piece of land called Dunbar Field from a dying villager. But when his monks tried to graze their sheep on the field, villagers claimed the field as their own and scattered the flocks. "I beg you, Sire," wrote the Abbot, "tell your shire-reeve to enforce our rights. Get the villagers off our land."

Today, the King received another letter, this one from the Earl of Dunbar. According to the Earl, the monks don't own Dunbar Field. The villagers don't believe the dead man gave the land to the Abbey. Besides, even if he did, Dunbar Field didn't belong to him. The whole village had helped clear the land. For years, everyone has grown vegetables on it. "The monks' sheep," complains the Earl, "will ruin the villagers' crop."

The conflict is now out of hand. Fights have broken out. The villagers pelt the monks with rocks; the monks fight back with staffs and shepherds' crooks. Both the Abbot and the Earl want a quick decision. Each wants the King to issue a writ to a shire-reeve enforcing his rights.

"Oh, why can't they settle this problem themselves?" moaned the King. "How do I know who rightly owns Dunbar Field?" King Stephen sadly scratched the ears of a hound lounging at his heels. Then, patting the dog, he rose. "We'll worry about Dunbar Field tomorrow, eh, old boy?" he said. Grabbing his walking stick, King Stephen whistled to his hounds and strode from the room. The cares of merry old England could wait. He was going for a walk in the royal woods.

1. **This story is set in 1142 A.D. Stephen is the King of England. What is his problem?**

2. **The king mentions a person called a shire-reeve, his officer in Dunbar Village. What would a modern-day shire-reeve be called?**

3. **If you were Stephen, what would you do? Would you give Dunbar Field to the monks? To the villagers? Why?**

4. **After his walk, Stephen sent this reply to his subjects:**

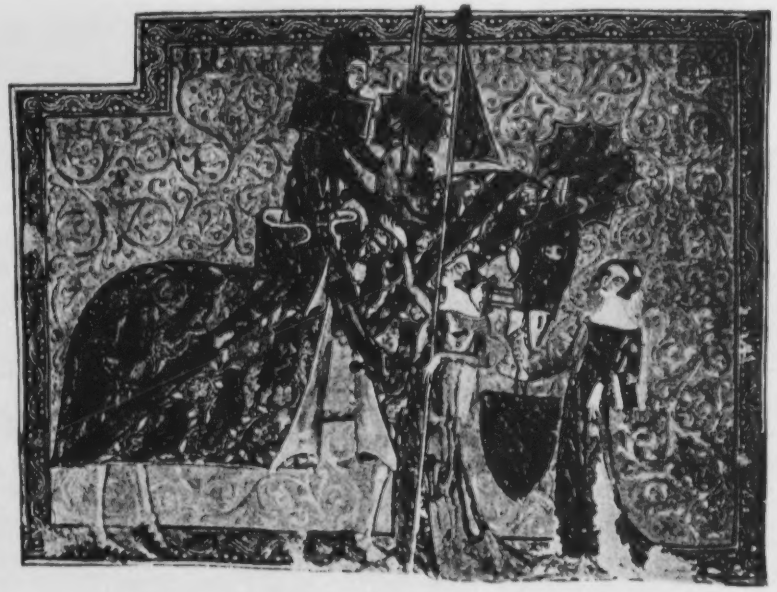
   "King Stephen to the Shire-reeve of Surrey, greetings. It is my will that Roderick, Earl of Dunbar, and the Abbot of Chertsey Abbey shall prove or disprove their right to the land known as Dunbar Field by trial according to the Norman custom."

   Who were the Normans?

The Norman Custom

1. Before you tried this case, your class voted about who should get Dunbar Field. In a way, that vote was a trial. How is the decision made at the "vote" trial different from the decision made at the trial according to "Norman custom"?

2. Do you think trial by combat is a fair way of deciding who should own Dunbar Field? Of deciding other cases? Why or why not?



From the *Lutrell Psalter*, c. 1340. (MS Add 4, 42130 f. 202 v.) Reprinted by permission of the British Library, London.

Might and Right

During the Middle Ages, trial by combat was a very popular way of telling right from wrong. Kings, barons, earls and counts settled arguments and judged crimes by arranging fights between champions from the two opposing sides. It worked. People accepted and obeyed the decisions made at these feudal trials, just as you and I accept the decisions made by judges and juries.

Today, this might seem just plain stupid. What were all those people thinking of? What does being a good fighter have to do with being right? Before you jump to any conclusions about the intelligence of medieval people, consider the following points.

Strength was important.

Between 700 and 1000 A.D., western Europe was one big battlefield. Muslims were invading from the south. Magyars attacked from the east. Viking raiders struck like lightning from the north. Fighting was normal, almost routine.

In this climate of violence and fear, only the powerful survived. Good warriors could defend their property. They could protect themselves, their families, and their underlings. Poor warriors were at the mercy of the stronger forces around them. Since success in battle meant survival, trial by combat seemed natural and logical.

Strength meant goodness.

Trial by combat depends on the belief that might and right are one and the same thing. The best fighter (the winner) is also the best person. His or her cause is just. His or her side is right. The worst fighter (the loser) is wrong.

This wasn't just an easy excuse so people could take their neighbors' belongings. It was deeply rooted in the need to survive in a violent time. Survival meant protecting your possessions, defending your dependents and strengthening your position. Anything a person did to accomplish these goals was "right" because it was "right" to survive.

God was involved.

Most of the people who lived in western Europe during the Middle Ages were Christians. Medieval Christians believed in a Supreme Being who paid attention to what happened on earth. God played an active part in their daily lives.

This belief meant that God was involved in each trial by combat. If the "good" side was losing, God would interfere. God would punish the wicked and see that justice was done.

Combat was swift and final.

Justice seems more just when arrest, trial and punishment quickly follow a crime. This is especially true in times of chaos. If a crime isn't solved immediately, it may never be settled. Trial by combat was a quick and final way of ending debates.

A real trial by combat wasn't a wrestling match or a toss of the coin. It was a full-out battle to the death. Two powerful knights attacked each other with all their strength. Each was mounted on a armoured horse. Each carried plenty of weapons.

The knights usually led the attack with their lances and maces. Each tried to knock the enemy off his horse, or if that failed, to kill the horse. Once dismounted, the knights used their swords and shields. Their armour was very heavy. When its weight became exhausting, both men tossed it aside and drew their daggers. They grappled in the dust until one or the other was dead.

A wounded knight could beg for mercy. The victor might even grant the request. Whether he lived or died, the loser was stripped of his wealth and power. Most knights chose death. Since a dead knight couldn't appeal his case, the judgment was final.

1. **What was life like in medieval Europe?**
2. **Why did the medieval Europeans believe in trial by combat?**
3. **Do people still believe that might is right? Have you heard people on T.V. or at home say things that sound like they believe might is right? Have they behaved as if might is right?**

Anglo-Saxon Customs

The Anglo-Saxons who ruled England before the Norman conquest laughed at trial by combat. They thought it was barbaric. Like many northern European peoples, they preferred trial by ordeal. In an ordeal, an accused person proves his or her innocence by enduring great pain without being hurt. The person might have to carry red hot metal or pull a ring from a pot of boiling water.

Medieval people weren't stupid. They understood nature was against the accused. But they believed God was personally concerned with human justice. God would protect the innocent. They also thought an innocent person, through belief in his or her own innocence, could stand incredible physical pain.

Like trial by combat, trial by ordeal gave quick, definite answers. Either the person could carry the hot iron or the person couldn't. However, trial by ordeal provided this swift judgment without forcing the accuser to take risks. In an ordeal, only the accused was on trial.

Ordeal and combat weren't the only alternatives. "In the first place, as a matter of supreme importance," reads an ancient Anglo-Saxon law, "every man shall abide carefully by his oath and pledge." It was said horrible things happened to men who broke their word. Their crops might wither from weevils or mold. Their cattle might drop dead in the pasture. Their children might waste away. Because a man's word was so important, the medieval English tried crimes by oaths.

Trial by oath was a swearing contest. Jack swears that Harry committed a crime. Harry swears he's innocent. Each man then tries to get as many freemen as possible to swear with him. Whoever gets the most co-swearers wins.

Freemen who join the contest lay their own reputations on the line. If they swear Harry's innocent and he's found holding stolen loot, the co-swearers have committed perjury. They've broken their oaths and will not be trusted again. If Harry's well-liked in his village, and people think he's honest, he's likely to win the contest. If he's a known criminal, he'll have a hard time.

Almost all medieval English legal processes relied, in some way, upon sworn oaths. Criminals were accused by oath. Before a trial by combat, each side swore its cause was just. Before an ordeal, the accused person swore he or she was innocent.

The feudal English had yet another legal option. If a law was broken, someone told the king and he decided what to do. If two people had a quarrel, they went to the king. The king decided who was right. This is called royal judgment.

To get a royal judgment, a freeman had to visit the king. The king's decision was written down on parchment for the man to take back to his shire as proof. This written decision was called, quite sensibly, a writ. Often, the king would issue a writ based on one side of the story. A few weeks later, someone would arrive and tell him the other side. He'd then have to issue a writ to take back the first writ.

To complicate matters, the king wasn't the only person who made decisions by royal judgment. He had an officer, a reeve, in each shire to keep the peace. Like Hammurabi's judges, shire-reeves shared in the king's power. Shire-reeves often had a personal interest in the cases they tried. Sometimes, they let their friends get away with murder. Sometimes, they punished their enemies unfairly.

To limit the shire-reeves' power, English kings appointed special judges. These men visited each shire in turn. Using the king's authority, they made royal judgments about all unsettled cases. Because they were on location, royal justices could get more facts about cases than the king. They made more informed decisions. Unlike the shire-reeves, the justices had no stake in the cases they tried.

By 1150 A.D., an Englishman had many ways to solve his legal problems. He could go to his shire-reeve. He could wait for the traveling royal justice to appear. He could go directly to the king. Any of these people could give him a royal judgment. Or he could ask one of them to try his case by oath, by ordeal, or by combat. The king, justice or shire-reeve, in turn, could refuse royal judgment and, as in the Dunbar Field case, insist a case be tried by one of the other methods.

Detail, the Bayeux Tapestry, illustrating the Norman conquest of England. With special authorization from the City of Bayeux, France.

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1. **Medieval people believed that ordeals and combats tested people's guilt and innocence. Today, we disagree. We think that combat tests the strength and courage of the warriors, not their guilt or innocence. What does an ordeal test?**

2. **Do you think being honest or innocent helps a person endure pain? Why or why not?**

3. **What does a swearing contest (trial by oath) test? Do you think these factors should be considered when deciding a person's guilt or innocence? Why or why not?**

4. **Do you think people who "swear to tell the truth, the whole truth and nothing but the truth" in courts today really do? Is oath-taking the best way to make sure people are telling the truth? Why or why not?**

5. **What was a writ?**

6. **In medieval England, who could try cases by royal judgment?**

7. **If you lived in medieval England and were accused of a crime, which legal process would you prefer to be tried by? Why? What if you were involved in a dispute over ownership of some land? How would you want that case settled?**

Arson at Great Peatling

"Nonsense," snapped Granny Dunsmere as she shelled another bean. "Poor Tom's always been crazy about Becky Miller. It couldn't have been anybody but him."

Margaret Cordwainer exchanged a smile with the other women cleaning beans in front of her cottage. They all knew Granny wasn't one to mince words. "But Granny," Margaret started.

"But nothing!" Granny interrupted. "Every last one of you's seen him snooping around that house. Waiting 'til her dad was out. I saw him myself the day of the fire."

"It's true," chimed in Sarah Thatcher.

The women picked up their ears. If anyone knew anything about the miller's family, Sarah did. She lived next door.

"Poor Tom was always sneaking over there." Sarah shook her head.

"Bound to be trouble sooner or later," agreed another woman.

"And I ain't never seen anything like that fire! Whole house went up in flames!" Sarah paused to remember. "There wasn't a thing they could do, either. Couldn't get the water from the river fast enough." Sarah shrugged. "Of course, things wouldn't be so bad if the mill hadn't caught."

The women sighed. Nearly a quarter of the village's harvest had been stored in the mill. When the mill caught fire, all that grain burned. It would be a lean winter.

"Whoever set it, set it good." Sarah winked at Margaret. "Of course, there's plenty of people with good reason to hate the miller. You know as well as I, he doesn't measure straight."

Granny Dunsmere snorted. "But nobody disappeared after the fire except Tom," she said triumphantly.

"That's not fair!" scolded Margaret. "Poor Tom ran off before the fire. He was in the forest, collecting firewood."

"Collecting firewood! Ha!" Granny snorted again. "That isn't what Tom Ackybourne does in the woods. Collecting rabbits is more like it. Collecting deer. He's plum lucky they didn't catch him poaching."

"There!" exclaimed Margaret. "What's he going out poaching for if he just burned the mill? He'd know they'd come looking for him."

Granny fell silent and sulked.

"Anyway," said Margaret as a gesture of peace, "I think it serves Sam Miller right. Keeping Becky and Tom apart like that."

Sarah looked up at Margaret. "That isn't the way I heard it at all."

"No?" said Margaret.

"Not at all," answered Sarah. "Sam had nothing to do with it. Becky decided she didn't want to marry Tom. Gave him a flat no."

The other women looked shocked. They'd all thought Becky wanted to marry Tom. Becky's father, Sam, was the only person in the village who didn't approve.

"Why do you think Tom made such a fuss?" Sarah continued, "Becky told him straight out, 'No!' Just like that. And then she giggled a bit. You know how Becky giggles. Drove him plum crazy. That's when he started hitting her."

"Yes! I remember that!" several women chimed in. They'd all run in from the fields that afternoon because of the commotion at the mill. When they arrived, Becky was lying in a heap on the ground, bruised and sobbing. Tom and Sam were wrestling in the dust.

It took two men to pull Tom away from Sam Miller. But he calmed down quickly. He didn't look at Becky, just picked up his jacket and walked away. Later that evening, the miller's house caught fire and burned to the ground.

The sheriff's men found Tom a few days later, deep in the forest. He swore he'd hadn't been in Great Peatling since the afternoon of the fight. No one had seen him in the village, but few believed his story.

"What was Becky thinking of to turn him down?" Margaret was annoyed.

"I don't know that I should tell you this." Sarah lowered her voice. "Becky told me she's been seeing somebody else. Somebody more important."

Granny Dunsmere laughed. "Poor Becky. That fool of a father, that's who it is. He's always telling her she could do better than Tom."

"Last harvest, I'd have sworn no man alive was better than Tom." Margaret shook her head sadly. "He's going before the sheriff and the king's justice tomorrow. I don't think he's got a chance."

"Well," Sarah smiled slyly. "Once Tom's out of the way, we'll certainly see if somebody better does come around."

1. The text you just read is a fictional short story. What is it about?

2. Who's the prime suspect? What's he suspected of? Why?

3. This story is set in the village of Great Peatling, Shire of Leichester (LES-ter), England. The year is 1181. What might happen to Tom when he goes before the king's justice?

Twelve Lawful and Honest Men

As Margaret Cordwainer sat discussing Tom's case, a cloaked horseman rode into the village square. He hurriedly asked directions. Then he spurred his tired horse up the hill toward Peatling Manor. In his satchel, the rider carried a writ stamped with the royal seal of Henry II. It said:

> "Henry, by the Grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, Earl of Anjou, to the free men of Le chestershire, greetings. After most earnest talk with my Lord Rainer, Sheriff of Leichestershire and my Lord Glanville, Justice of the Realm, it is my will that you shall choose twelve lawful and honest freemen to determine, upon their oaths, the guilt or innocence of Thomas Ackybourne, freeman of Great Peatling, accused of arson in this year of our Lord, one thousand, one hundred eighty and one."

Henry II was king of England from 1154 to 1189 A.D. To whom is his writ addressed? What does it say?

During Henry II's reign England grew quickly. The king needed better ways of giving his people justice. He took parts from the old legal processes and played around with them. When he mixed trial by oath with royal judgment, he came up with trial by jury.

In this new process, the shire chose twelve freemen who knew something about the crime and the accused person. Each of these men was known for obeying the law and keeping his word. Based on what he knew, each man would make up his mind about the case. In a sense, each juror made a royal judgment. As added protection, each juror swore his decision was the truth in front of the sheriff and a royal justice.

Only free men could be jurors. Serfs and women were excluded. Under ancient Anglo-Saxon law, most women and children were owned by their husbands and fathers. Because they weren't fully free, women's oaths were not binding. This kept them off juries and out of the witness box. It kept them from signing contracts. As medieval towns grew, more women took over businesses. They needed to sign contracts and use the courts. The laws discriminating against women slowly began to change.

When Henry II started trying cases by jury, he didn't know if his new system would work. Take part in this experiment and help him find out. Everyone in your class will play one of the "twelve lawful and honest freemen" chosen to try Thomas Ackybourne's case.

If you lived in Great Peatling, much of what you'd know about the case would come from gossip. The story on the previous page has given you this general background. Also, you'd know Tom and have an opinion about him.

Your teacher will give you a number from 1 to 12. This number tells you which juror you're playing. Look up the juror on the list below and find out who he is.

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Juror #1

You are *Nicholas the Carter*. Over the years, you've built up a prosperous business carrying food and animals around Leichestershire. You don't know Tom very well. Occasionally, he hires you to cart grain. He always pays you on time, so you have no reason to dislike him.

Just before the fire, you delivered a load of wheat to the mill at Great Peatling. On your way home, just at dusk, you saw a man coming down the road toward you. When you waved hello, the man looked up startled and ran into the forest. A few days later, you heard that Tom Ackybourne burned down Great Peatling Mill. Suddenly, the encounter made sense. This man was about Tom's height. He didn't want you to see him going toward the mill.

Juror #2

You are *John Grim*, a freeman. You've lived all your 18 years in Great Peatling. Three years ago, you married a woman from Whalley, the next village over. Now you have two healthy children. You are a very good carpenter, the best in the village. You work hard and the people of Great Peatling respect you.

You and Tom grew up together. You're as close as brothers. Tom is very level-headed and fair. In all your years together, he's only lost his temper once. That happened when you brought up the subject of his marrying someone other than Becky.

On the day of the fire, you were in Whalley, helping your father-in-law mend a table. When you got back to the village, your wife told you Tom had been by and was very angry. She also told you that the mill had burned and people were saying Tom did it. You talked with Tom after his arrest and he swore he didn't do it.

Juror #3

You are *Robert of Whalley*, Under-Sheriff for a village close to Great Peatling. Because of your important position, you live in Whalley Keep. You own good farmland and can afford serfs to farm it for you. You know Tom Ackybourne is a poacher, but you haven't been able to catch him. This really bothers you. You want to bring him to justice.

On the afternoon of the fire, you were at Peatling Manor on business. You were just leaving as the fire broke out. You rushed to organize the fire-fighting. At the mill, you overheard a woman say that her daughter saw Tom Ackybourne start the fire.

Juror #4

You are *Hugh Peverill.* You live in the village of Wykeham but spend most of your time in the nearby Abbey of Levern, where you study old manuscripts. You own good farmland, which is managed by serfs. You don't know Tom personally, but the monks at the Abbey say he's very devout.

Last week a monk told you, in the strictest confidence, that Becky Miller had come to him for help. Becky told the monk that Tom did not burn the mill and she knows who did. Becky refused to name the arsonist. You hope she changes her mind.

Juror #5

You are *William FitzStephen,* 19 years old, son and only heir to the land and wealth of Stephen of Wykeham. When you were 9 years old, your father married you to the daughter of a neighboring landlord. You don't like your wife. She and your two children live with her father and will do so until your father dies and you inherit his lands.

You don't know Tom personally. Becky Miller says Tom is a good and honest man and very dull. You've been seeing Becky on the sly for three or four months. Because you're married, she won't take you seriously. She plans to marry Tom. Becky told you about Tom's fight with her father. You realized that if something happened to the mill everyone would think Tom did it. Your teacher will give you more information.

Juror #6

You are *Peter de Neville,* lord of Peatling Manor and overlord of the villages of Whalley and Great Peatling. You're 34 and have spent most of your life in France overseeing your lands and fighting wars. You don't like the Anglo-Saxon people. They seem brutish and lazy. You're sure they lead violent, ugly lives.

Tom is one of the Anglo-Saxon freemen who lives in your villages. You only see Tom when he pays his rent and does his annual week of service. You don't pay much attention to what goes on in your villages.

When you arrived from France a week ago, your servants told you that Tom burnt the mill. You're very angry because, though Samuel ran the mill, you owned it. Now the harvest won't be milled in time for the winter unless you pay one of the neighboring millers.

Juror #7

You are *Allen Langland,* blacksmith in the village of Great Peatling. You own the best farmland in the village and have three serfs. You're only 21, but you make a very good living for your wife and six children. Tom is a few years younger than you. You aren't close friends, but you've always liked him. He's honest and hardworking, though he hasn't been very successful.

On the afternoon before the fire, when you pulled Tom away from Sam Miller, you saw how angry he was. You also saw that he calmed down and left peacefully. Your forge is very close to the mill, and you were working late into the evening. If Tom had returned to set the fire, you would have noticed him.

Juror #8

You are *William Harrison,* warden of the king's forest. You grew up in Great Peatling, but you left when you were 13 to make your way in the world. Last year, you returned with a commission from the king to act as warden and gameskeeper.

You knew Tom as a child, and didn't like him. However, since you've been back, you've had some interesting talks with Tom. He seems to be in the forest a lot.

Late in the afternoon on the day of the fire, you caught Tom trapping rabbits in the forest. You didn't arrest him because he seemed very upset. You talked to him for a while and he fixed you a dinner of rabbit stew. It was quite dark by the time Tom left. He was heading deeper into the forest, not back towards Great Peatling.

Juror #9

You are *Duns Evesham,* a farmer from Great Peatling. You live in a small cottage with your elderly mother. Though your father was fairly well-off, he died when you were still young. Since then, it's been hard to make ends meet.

Your mother took a liking to Tom when he was a little boy. She saw him as the grandson she never had. Tom, in return, has always been kind to your mother. He stops to visit her often and sometimes brings small presents.

You spent the afternoon of the fire working in the fields. When you saw the smoke, you came running to help. After it was all over, you heard about the fight Tom had with Sam and Becky. You sympathized. When you were young, a girl promised to marry you and then backed out of it. If you had thought to burn her house down, you would have.

Juror #10

You are *Stephen of Wykeham,* an important knight and close friend of the king. You've retired to Fyske Castle and have become very involved in the life of the shire. Your wife has been dead for several years. Though she bore you five children, only one survived. His name is William. You don't trust him much.

You know Tom well, though he isn't one of your villagers. He served under you during the last war. He was a loyal and courageous soldier, remarkably calm in battle.

Sam Miller is a cheat. Everyone in the shire knows it. Miller gets away with it because his overlord, de Neville, won't do anything. Perhaps Tom set the fire, but it's just as likely one of Miller's victims finally decided to get revenge.

Juror #11

You are *Geoffrey Cordwainer*, a farmer of the village of Great Peatling. You're 35 years old. Your wife, Margaret, bore you ten children. Only six of them lived. Tom was a good friend of your second oldest son. You've always liked Tom and think he's been a good influence on your son.

When people started saying that Tom set the fire, you thought they were crazy. But Margaret told you one evening that Sarah Thatcher told her that Tom had good reason to burn the house because Becky refused to marry him.

Juror #12

You are *Hamon de Mascey*, a freeman. Though your father was only a farmer, he was very wealthy. You were his youngest son, so you didn't inherit the farm. Your father sent you to the household of the Earl of Leischester to be trained as a page. Through hard work, you are now a squire and will someday be knighted.

You and Tom served under Stephen of Wykeham during the last war. Though you were serving a knight, and Tom was only a foot soldier, you saw a good deal of him. He was always trying to better himself by playing up to the knights and lords. You think he's a pushy braggart. Robert of Whalley is a good friend of yours. He told you about the fire and that some girl in the village saw Tom set it.

The Trial of the Great Peatling Arsonist

You are in the great stone courtyard of Peatling Manor, home of Peter de Neville, overlord of the village of Great Peatling. There is a brisk autumn wind. You and the other freemen of Leichestershire, your cloaks pulled tightly around your shoulders, stand in the center of the courtyard in small groups. You talk quietly. Each group eyes the others. Though the trial hasn't started, everyone knows Tom Ackybourne's fate is being decided right now, by the opinions passing around the courtyard.

At the stroke of noon, the Under-Sheriff of Great Peatling enters. He nods a greeting to the two most important lords and clears his throat. The yard is suddenly silent. Pulling a parchment scroll from his cloak, the Under-Sheriff reads the

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names of the chosen twelve. All are present and ready to serve.

With a nod toward a stone archway, the Under-Sheriff claps his hands. The crowd turns to see Thomas Ackybourne, tightly gripped by two guards. He looks tired and unhappy. The Under-Sheriff addresses his prisoner in solemn voice.

"Thomas Ackybourne, you stand before us, a Freeman of the village of Great Peatling and 18 years of age. You are accused of arson by the Sheriff of Leichestershire and the common talk of freemen. It is said you did willfully set fire to the house of Samuel, Miller of Great Peatling, which fire did destroy both the miller's house and the mill. Upon your oath, how do you plead?"

Thomas looks carefully around the courtyard. Then, in a calm, steady voice, he replies, "Upon my oath as a Christian man, I did set no such fire. I have been falsely accused because of my great anger toward the miller and his daughter. Upon my oath, I spent the evening of the fire collecting wood in the Royal Forest of Leichestershire."

The Under-Sheriff raises his hand to silence the crowd's chatter. He calls the twelve jurors foward. "You have just heard the charges against the prisoner and the prisoner's response. Upon your oaths, what is the truth of this matter?"

Re-read the facts about your character. Based on *that* information, how would he vote? Meet with the other students playing your juror and decide how to vote. When you reach agreement, have one student write your group's decision on a piece of notebook paper. Use this form:

> "Upon my oath as a Christian man and a Servant of Henry, King of England, I, (your juror's name), swear that Thomas Ackybourne is (guilty or innocent) of the charges of arson against him."

After this sentence, sign the character's name. Remember, your juror's vote counts like a sworn statement. As a medieval Englishman, you know that the devil will get you if you lie.

Trial By Jury

1. Did the jury make the right decision?

2. When Duns Evensham, Juror #9, was young, a girl broke a promise to marry him. How did the people playing Evensham vote? Did sympathizing with Tom effect their decisions?

3. Peter de Neville, Juror #6, doesn't like Tom because Tom is an Anglo-Saxon. Juror #10, Stephen of Wykeham, likes Tom because Tom's a good soldier. How did these two jurors vote? Did liking or disliking Tom affect their decisions?

4. Both Robert of Whalley, Juror #3, and William Harrison, Juror #8, know Tom is a poacher. Did knowing that Tom was a criminal affect these jurors' votes?

5. Unless you played Juror #5, you had no actual knowledge of whether or not Tom set fire to the miller's house. You couldn't have decided in his favor because you *knew* he was innocent or against him because you *knew* he was guilty. What, then, influenced your decision about Tom's case? Why did you vote as you did?

6. What information would have helped you make a better decision?

7. How could Tom's trial have been changed so jurors would get the necessary information?

8. Jury decisions today must usually be unanimous. All the jurors must agree about the truth of a case or their verdict is not accepted. Do you think this rule results in a better jury decision? How would it have affected Tom's trial?

Picking the Best Process

1. In this lesson, you've looked at five legal processes used in medieval England. Each was supposed to test an accused person's guilt. What was each process really a test of?

2. What do you think a legal process ought to test? What should be on trial during a trial? Which of the five medieval processes does the best job of this?

3. How do you think a legal process should decide whether or not someone is guilty? What should it do? What shouldn't it do?

4. In the U.S., some legal decisions are made by juries. Other decisions are made by judges, either alone or working in groups. In other parts of the world, all decisions are made by judges. Who do you think would make a better decision about a case: the people who sit on a jury or a person who has been trained as a judge? Why?

Unit 5 Florence in Flower: The Need for Authority

Vocabulary

florin (n) A gold coin first issued by Florence in 1252 and used throughout Europe during the Middle Ages. The coin was stamped with a lily, Florence's official symbol. Its name comes from *fiore*, the Italian word for flower.

lire (n) Another kind of medieval Florentine money. One florin was worth about 75 lire.

millet (n) The seeds of a kind of grass, used for food in Europe and Asia.

palazzo (n) The Italian word for palace. In medieval Italy, any large house or official building was a palazzo.

piazza (n) The Italian word for plaza; a city square or meeting place.

podesta (n) A temporary, travelling governor. Medieval Italian city-states hired podestas to administer their laws.

prophecy (n) A prediction about the future.

prosper (v) To succeed, flourish, thrive, grow, be lucky.

Signoria (n) Medieval Florence's city council; a group of men chosen from the city's upper class to make laws hire the podesta, collect taxes, etc. A man who served on the council was called a *Signori*.

tierce (n) The third hour after sunrise, about 9 A.M. In medieval European cities, church bells were rung at this hour (and six other times during the day) to remind people to pray.

Giving Up the Goods

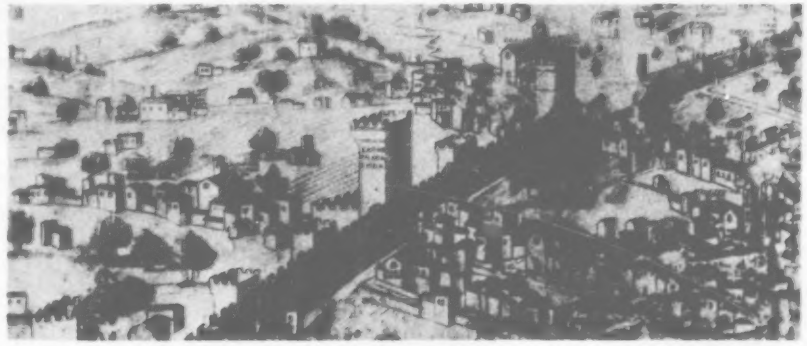
Eighty city bells pealed tierce. "Oh no," groaned Monna Francesca. She hugged her tightly-wrapped parcel even more closely and quickened her pace. The two maid servants trotting behind their mistress exchanged a look of mock dispair.

"Please, my lady," panted one of the maids, "think of your position. Only servants and thieves run in the public streets."

"Oh, do stop nagging," snapped Francesca. "Landozzo will kill me for being late! Besides," she added with a nod at her parcel, "everybody's already talking about me. I'm a known criminal."

As her maids giggled, Francesca glanced up at the stone and wood dwellings which walled both sides of the narrow street. In the city, people lived so close together that gossip spread like fire.

City life could be fascinating, too. A moment later, Francesca stepped into the bustling Piazza della Signoria (the Square of the City Elders). To her left, two housewives haggled over a spilled bushel of millet flour. At her feet, a group of boys squatted in the dirt, listening wide-eyed to a merchant describe the dangers of a journey to Constantinople. Straight ahead, a noisy crowd of clerks and craftsmen pursued new clients.



Map of 15th century Florence. Library of Congress.

Francesca felt a tug at her sleeve. "Over there, my lady!" She looked in the direction her maid was pointing. Squinting into the sunlight, she could just pick out the tall, thin figure of her husband, Landozzo. Dressed in his best gown, he was pacing back and forth on the steps of the Palazzo della Signoria (the City Elders' Palace).

"Courage, my lady," whispered one maid, squeezing Francesca's shoulder.

"Everyone's doing it," muttered the other. "Why should they single you out?"

"Because I was silly enough to get caught." Francesca smiled. With a wink at her maids, she lifted her chin and swept gracefully across the wide piazza.

When she reached the palazzo steps, Francesca caught her husband's eye. He didn't look too angry. Relieved, the lady opened her mouth to apologize for being late. Just then, a harsh voice boomed across the piazza.

"So, the willful woman is here at last!"

Monna Francesca was so startled she jumped. The voice belonged to a squat, beetle-like man standing a few feet behind her husband. He wore a gown and cap of lush black velvet. The chains and badges of the city's highest office swung across his chest.

"Now I've done it," thought Francesca. Landozzo hadn't told her that a member of the Signoria, the elders who governed the city, would be present when she turned in her outlawed goods.

"Your tardiness does not surprise me, Madam," the gentleman barked. "Your true feelings for the glorious city of Florence are obvious from the way you totally ignore our laws."

"Signori!" Francesca began gently.

The gentleman ignored her protest. "Where is the forbidden property?" he growled. His glare rested on Francesca's parcel. "There! Take it!" An attendant snatched the package.

Landozzo stepped forward to interfere, but the Signori raised his hand for silence. In a voice loud enough to reach the farthest corner of the piazza, he proclaimed: "A great evil threatens our city. You!" He turned to Francesca. "You and others of your kind are bringing this evil upon us."

The old fool! thought Francesca. She held her tongue, however, and bowed her head. It was better to seem meek and patient.

"In the old days," the Signori continued, "the people of Florence were modest and sober. But you want to change that, don't you, Madam? You want to own and exhibit this — thing!" He poked a finger at Francesca's parcel in disgust.

"Use of such article," he shuddered, "leads to unladylike behavior. It encourages the sins of pride and vanity. It causes flirting. Our young men are led astray. Our city's reputation is ruined. Think, Madam, how you waste your husband's wealth! You shame and displease both his family and your own!"

"To display or even to possess an item like this is forbidden. It is against the wishes of God and the laws of our city. You knew this, Madam. But you chose to disobey. In the future you will not be so careless. Bring forth the melted lead!"

The crowd which had gathered to listen was very still. The Signori tore open Francesca's parcel and held its contents high over his head so everyone could see. "Here," he boomed, "is the evil which attacks our city."

Solemnly, the crowd gazed up at the dangerous and forbidden article. It was a piece of clothing. It flapped, ever so slightly, in the breeze.

Francesca sighed as she looked at the garment. A floor-length cloak, made of bright yellow silk, it was one of the most costly coats in all Florence and surely the most beautiful. Pictures of parrots, butterflies, trees, roses, dragons and castles were woven right into the fabric. The edges were embroidered with yellow and black letters. The whole cloak was lined with a soft, warm scarlet cloth, trimmed in black. Her friends had been green with envy.

And I only got to wear it once, thought Francesca sadly. She'd had the cloak made for her sister-in-law's wedding party. The city elders had outlawed all pretty clothes. On her way to and from the party, Francesca hid her new cloak under a plain brown robe.

Clearly, though, she hadn't been careful enough. The very next day, Landozzo got a notice from the city elders. Her cloak had been reported. It was an illegal garment. The elders ordered her to turn it over to them.

"This cloak is made of silk, Madam. Can you deny that?" The Signori's voice interrupted Francesca's thoughts. "It is embroidered. It is brightly colored. All this is forbidden. We cannot allow such evil to continue!"

As Francesca watched, the Signori draped the yellow cloak on a small table. An attendant handed him a pot of heated lead. Slowly, the Signori poured the metal over the beautiful fabric. Then he took a heavy stone stamp, engraved with a lily and a cross, and pressed it into the cooling metal.

As the lead hardened, the Signori turned to Francesca with a smile of triumph. "This lead seal," he said, "marks your cloak as a garment outlawed by the city of Florence. Dare you wear it again?"

Francesca lowered her eyes and muttered, "No, Signori." Of course she wouldn't dare wear it again, but not because the cloak had been outlawed. That didn't bother her. The city elders were always outlawing certain clothes. Nobody paid much attention.

Francesca couldn't wear the cloak because the Signori had poured molten metal all over the front and ruined the cloth. What a waste of good fabric! she thought. I wonder if my tailor can cut the ruined part off. Maybe there'll be enough left to make a gown. I need a dress for the festival of San Giovanni anyway.

1. This story takes place in the late 14th century in a city called Florence. Where is Florence?

2. The story is about a woman named Monna Francesca. (In medieval Italy, Monna was a title of respect, like "Lady" or "Madam.") What was Monna Francesca ordered to turn over to the authorities?

3. Why did she have to give up this article?

4. One of the characters in the story is called the Signori. Who was he? What did he do to Francesca's forbidden goods?

5. Monna Francesca was a real person. She was married to Landozzo di Uberto degli Albizzi, who came from a very powerful Florentine family. City records show that, in 1343, a cloak of Francesca's, just like the one in the story, was taken and sealed with lead by city officials. The records don't tell us Francesca's feelings about this. From the story, how do you think Francesca felt about the laws against her cloak? Do you think she'll obey these laws in the future? Why or why not?

6. Why do you think the group of elders who governed Florence — the Signoria — passed laws forbidding fancy clothes?

The City That Prospered

In the dawn of their search for an empire, a group of colonists from Rome stumbled across a small village on the banks of the Arno River in northern Italy. Liking the central location, they set up their tents and settled down. They named their new city Fiorenza or Florence. In Latin, this means "fated to blossom and flourish." The name was a prophecy.

By the twelfth century, Florence controlled a vast economic network, founded on the wool trade. Florentine craftsmen spun, wove and dyed woolen fabrics famous for their strength and beauty. Florentine merchants shipped and traded these fabrics throughout the known world.

Because people from so many different countries did business in the city, money-changing was another important industry. For a fee, traders from Constantinople, London and Castille could easily turn their native coins into gold Florentine florins. Money-changing went hand-in-hand with money-lending. Florence

A busy Florentine marketplace in the 1400's. Detail from "Trades and Professions: The Planet Mercury." Reprinted by permission of the Trustees of the British Museum, London.

quickly became an international banking center.

This wealth was not spread evenly among the city's population. Most Florentines owned next to nothing. They survived by selling their labor and skills. Many of the workers whose careful labor made the city's wool world-famous belonged to this lower class.

People who owned their tools, their workplace, and perhaps a small farm in the country belonged to the middle class. They, too, were fairly poor. Heavy taxes made it hard for them to build up large fortunes.

Only about 600 men and their families belonged to the wealthy upper class. Some of these men came from the noble families who'd owned the Florentine countryside in feudal times. Others had made large fortunes by lending money, owning wool workshops, and trading cloth.

These upper class families controlled Florentine politics. They and they alone sat on the councils and boards which governed the city. The most powerful of these

councils was the Signoria. This group wrote the city's laws. It decided when and on whom to declare war. It levied and collected taxes.

Oddly enough, though, the men who enforced Florence's laws were *not* chosen from the leading Florentine families. They came from the upper class families of other Italian cities.

In the Italian city-states, cut-throat rivalry between important families often lead to feuds. If allowed to run the government, feuding families used their power to persecute their enemies. This caused wide-scale bloodshed and disorder.

To prevent this, the city-states hired outsiders to run their governments. Florence, for instance, would invite an important man from Milan or Verona to administer its laws. This traveling governor was called a podesta. Aided by dozens of servants, he acted as combined policeman and judge. To be sure he stayed fair and unbiased, the Signoria chose a new podesta every six months.

For all its wealth and power, Florence was not a city of great luxury. Ordinary Florentines lived in small, bare rooms. A middle class family might own a simple wooden bed, two or three chests, a table and perhaps a few benches and wall hangings. Wealthier citizens used fancier furniture. Their goblets and platters were made of gold and silver, not wood and clay. Still, even upper class homes would look empty and drab to the modern eye.

The Florentine diet was also plain. Like most medieval Europeans, these people ate just twice each day: once at about 10 A.M. and again at 4 P.M. Breads and pastas, flavored with olive oil, were their basic foods. In season, vegetables were added to the menu. Except on special occasions, only the rich ate meats like poultry, pork and game. Ordinary people depended on chestnuts, beans and millet flour for their protein.

Until the thirteenth century, Florentines were known throughout Europe for their sober, modest way of dressing. Their gowns were cut from useful, cheap fabrics. Women wore a narrow gown of scarlet or green cloth and a hooded cloak lined with fur. Men dressed in shorter, fuller gowns. Clothing was costly, so most people only owned a few garments.

However, as Florence grew richer, people who could afford to began playing with fashion. Young men wore two or three different colors of stockings. Their gowns got shorter and shorter. Women added bright trimming and embroidery to their dresses and cloaks. They clasped fancy belts around their waists. They stuck silver buckles on their shoes. They looped their hair with braids, tassles and crowns.

The Florentines' lives had been very plain. It's easy to see why they loved the idea of luxury. Beautiful belongings added to a person's image. They proved a person's wealth and importance. The Florentine display of gorgeous clothes came from the same impulse as their love of beautiful paintings, sculptures and buildings. Between 1300 and 1500, this energy exploded into the Italian Renaissance.

Florentine leaders thought the new fashions were harmful. Money was wasted on costly clothes rather than invested in business. Public displays of luxury showed the difference between the lives of the rich and the poor. This made poor people unhappy and caused trouble. Fashion focused too much attention on worldy things. Though civic leaders criticized other people for dressing up, they themselves were often the worst offenders.

1. What industries made Florence so wealthy?

2. What was a podesta? Why did Italian city-states need podestas?

3. For what tasks was Florence's Signoria responsible?

4. Why do you think some Florentines wanted to wear extravagant and costly clothing?

5. People often define themselves by what they wear. What clothes are high status at the moment in your school? Does this vary from group to group? Imagine that someone decides these clothes are wasteful or immoral and makes wearing them illegal. Would you obey the law? Why or why not?

Scavenger Hunt

Obviously, people in medieval Florence dressed differently than we do today. It's not hard, though, to find out what these ancient clothes looked and felt like. All you need is a library and a clothes closet. Bring one example from each place to class.

From the Library. Bring an illustration of a Florentine man, woman or child dressed in the kind of clothes he or she would have worn between 1300 and 1550. You can find these pictures in books on the history of clothing or how to make costumes. Or look at paintings from Renaissance Florence. See the box for a list of Renaissance painters.

From the Closet. Bring a piece of fabric (or a garment made from fabric) that could have been used for clothing in Florence between 1300 and 1550. See the box for a list of Renaissance fabrics. If you can't find any in your closet, some fabric stores will give you small pieces called "swatches."

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Renaissance Painters

Masaccio (1401-1428)
Paolo Uccello (1397-1475)
Perugino (1446-1523)
Leonardo da Vinci (1452-1519)
Raphael (1483-1520)
Michaelangelo (1475-1564)

Renaissance Fabrics

Brocade — A heavy cloth with a raised design woven into it.
Camlet — A cloth made from a mixture of goat or camel hair and silk.
Embroidered cloth — Any kind of cloth with a design stitched on it in thread.
Leather — An animal skin, with the hair removed, that has been preserved by tanning.
Samite — A cloth made out of silk, woven with gold or silver threads.
Silk — Cloth made from a fiber produced by silkworms for their cocoons.
Vaire — The fur of an "ordinary" or common animal, like a rabbit, a fox or a squirrel.
Velvet — A fabric woven from silk so that one side is smooth and one side is "furry" or piled.
Wool — Cloth made from sheep or goat hair.

The Podesta

"If there's a person that you hate
Send him to Florence as an officer of State."

In March of 1384, Messer Amerigo Amerighi arrived in Florence to begin his six-month term as podesta. He came from Pesaro, a city about 95 miles east of Florence on the Adriatic seacoast. He'd been highly recommended. Even so, the new podesta soon discovered that Florence was big trouble.

When he presented his papers to the Signoria, Amerigo found those gentlemen seething with frustration. A few days before, a young lady had actually paraded into church in a dress with a nine-foot train. The elders were furious. They immediately passed even tougher laws against fancy clothes. Still, the abuses continued. "Even our own wives laugh at us," one old man complained.

"Messer Amerigo," thundered a Signori waving a sheet of parchment, "enforce our laws! That's what we're paying you for! Make our women give up these wasteful, evil, insane fashions!"

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With a polite smile, Amerigo took the list of laws from his employer and looked it over. It began:

1. *Women may not wear anything in their hair except very simple nets and braids.*

2. *Women may not wear gold, silver or silk tassles and fringes.*

3. *Women may not wear more than two finger rings at once.*

4. *Women may not wear dresses with trains longer than four feet.*

5. *Children may not wear more than one color of clothing at a time.*

6. *Men may not wear silver, silk or camlet.*

7. *No one may wear buttons.*

8. *No one but nobles may wear ermine or sable.*

The list went on and on. Amerigo shook his head and sighed. The job would be a challenge. He'd better get to work. Saluting the elders with a smart click of his heels, Amerigo turned and left the room.

The next day, the new podesta issued a warning to the city. Starting immediately, the laws forbidding fancy clothes would be strictly enforced. His officers would roam the city, keeping watch. Anyone wearing outlawed clothing would be reported.

Fines would range from 10 to 40 lire or more. (A skilled craftsman could earn about one lire a day.) Also, the illegal garment would be taken away and ruined with the city's lead seal. No one, Amerigo thought, will risk losing that much money for some silly fashion. Or would they?

"How many offenders did you catch today?" he asked his top officer a few days later.

"Well, sir..." began the sergeant.

"Ten? Twenty?" Amerigo continued. "At 40 lire apiece, that's 800 lire. The Signoria will be pleased. Not only will we stamp out fancy fashions, we'll also make the city rich."

"Not quite so many, sir," the officer muttered.

"Exactly how many, then?" Amerigo reached for a notebook.

"Well, exactly none, sir."

"What?"

"I said, 'Exactly—'"

"I heard what you said," the podesta interrupted. "I just can't believe my ears. What have you been doing all day? Sleeping?"

"No, sir!" protested the sergeant. "But they're slippery, sir! Just this morning, I saw a woman wearing four rows of buttons, right down the front of her dress. I said to her, 'You are wearing buttons. Tell me your name so I can report you.' She looks me straight in the eye and says, 'These aren't buttons. See, no buttonholes, no loops. They're studs. I'm allowed to wear studs.' And off she flounces."

"A minute later," the officer continued, "I saw a woman wearing a cloak lined with ermine. Now, I know ermine, sir. It's white with black flecks, and very soft. But this lady tells me her cloak is lined with suckling. 'What's a suckling?' I said. I was really suspicious, sir. 'It's a common animal,' says the lady. 'You're not going to report me for wearing common fur, are you?'"

"A suckling is any new-born animal, you idiot," replied Amerigo. "New-born animals don't have any fur yet."

"Sorry, sir."

"Look!" Amerigo almost shouted. "From now on, don't even talk to them. Just write their names down and I'll send for their husbands. I'd like to see them try those phony excuses on me."

Unfortunately, Amerigo got his wish. Eight men reported to the Palazzo the next morning. The podesta grinned as his victims filed into the hearing chamber. "Now," he thought, "we're getting somewhere."

Niccolo Soderini," Amerigo addressed the first man. "Three days ago, at the hour of tierce, your daughter Nicolosa was seen wearing a dress made of two pieces of silk, bound with tassles. Wearing such a dress is against the laws of your city."

"Begging your pardon, podesta," Soderini interrupted, "but that is not possible. Three days ago, at the hour of tierce, Nicolosa was at home with her mother."

"My officer saw her in the public street," said Amerigo firmly.

"My brother and my son are here, podesta. They will swear what I say is true."

"How can that be?" Amerigo was puzzled. "Your daughter does own a dress like the one described, doesn't she?"

"Podesta," replied Soderini, "my daughter is but ten years old. Why would she need a dress like that?"

"Not a good beginning," muttered Amerigo as he dismissed the case. Nor did things improve. The next man claimed his wife was too old to walk in the streets. A third man's sister had been sick in bed for weeks. Everyone had an excuse. Everyone had witnesses.

Late that afternoon, the sergeant found the new podesta slumped in his empty chamber, holding his head. "How many fines did you collect?" he asked cheerfully.

Amerigo looked up and moaned. "Exactly none. N-O-N-E. The only thing I collected from this whole day's work is a big headache."

Early 16th century bust, made by Florentine sculptor Pietro Torrigiano. All rights reserved, Metropolitan Museum of Art, Harris Brisbane Dick Fund, 1936. Detail of bust. (36.69)

1. What are the laws Amerigo was trying to enforce?

2. Do any of the pictures of medieval Florentine clothes that your class collected show illegal clothing? Which ones? Were any of the fabrics your class found once outlawed fabrics?

3. As you know, a legal system includes the processes by which rules are enforced as well as the rules themselves. What process did Amerigo use to enforce Florence's laws?

4. Why did Amerigo think the laws would be obeyed?

5. How did the people of Florence avoid the laws?

6. Most of the people who broke the anti-luxury laws were stylish young men and women. Female law-breakers did not appear in person before the podesta. Why do you think this was so?

7. The quote at the beginning of this story was found in the margin of a copy of Florence's anti-luxury laws. Someone, possibly one of Amerigo's clerks, scribbled it there during the 14th century. Do you think Amerigo would have agreed with this quote? Why or why not?

A Letter to the Signoria

Enforcement of Florence's laws against fancy clothing did not improve. In the middle of his term as podesta, Amerigo received a letter from the Signoria. "Everyone in town says you're doing an awful job," complained the elders. "Our women have never been so free to dress as they please."

Put yourself in Amerigo's position. The city of Florence hired you to enforce its laws. But no one in Florence will cooperate with you. In fact, most Florentines seem to be working against you. Now, these same Florentines are complaining that you're doing a bad job!

How would you answer these charges? Write a reply to the Signoria. First, explain why you think the laws against luxury aren't working. Is there something the matter with the laws themselves? With the way they're enforced? With people's attitudes? In the second paragraph, tell the Signoria what you think they should do to make these laws work. Explain the reasons behind your recommendations.

We Do But Beat Our Heads Against A Wall

1. From the letters your class wrote, what's the general opinion about why Florence's anti-luxury laws didn't work?

2. Again from the letters, what are the class's recommendations about what should be done to correct this problem?

3. Amerigo Amerighi was a real person who served Florence as podesta in 1384. Franco Saccheti, a Signori, wrote a story about Amerigo's troubles. Saccheti also tells us how the city elders responded to their podesta's letter. "We do but

beat our heads against a wall," they said. "We ought to forget about these laws and pay attention to more important matters. The men who think these laws are important can try to enforce them themselves." Do you agree with the Signoria's decision? Why or why not?

4. Just like the medieval Florentines, you're probably required to obey certain rules about clothing, at least while you're in school. Do the students at your school generally obey these rules? Why or why not?

5. In general, why do you think people obey laws?

The Extra Ingredient

Renaissance Florence was bothered by a conflict over clothes. The city elders tried to settle this conflict by using the law. Like Hammurabi, they made rules to control their subjects' behavior. Like the Greeks and the English, they found processes by which their rules could be applied.

The Florentine Signoria wrote its first anti-luxury law in 1306. It passed nine more versions of this law over the next 250 years. None of them kept women from wearing fancy clothes. Florence's laws and legal processes didn't work. They didn't settle the conflict.

A legal system needs something besides laws and processes if it is to work well. This extra ingredient can be described quite simply as the ability to make people obey. This ability is called authority.

The idea of authority has two parts. It includes the *right* to give orders, make decisions and impose rules, and the *power* to back up or enforce this right. No matter how good its laws or how just its processes, a government cannot make its legal system work without the right and the power of authority.

For example, Florence's Signoria had the right to make rules about dress. This right was part of its job as the city's main government. The Signoria didn't have enough power — enough time, enough money, enough police, enough interest — to enforce its right. The Signoria couldn't make people obey its anti-luxury laws. It lacked authority.

A government can get its authority in many different ways. It can frighten people into obedience with threats and force. It can take its authority from custom and tradition. Also, a government can be given authority, freely, by the people who live under it. Most people willingly obey laws which seem just or in their best interests. Also, people may be more obedient if they have some say about the rules they must follow.

Most legal systems get their authority from a combination of these sources. Some laws are willingly obeyed. Obedience to other parts of the system is customary. Others must be upheld with threats or force.

1. What three ingredients are needed to make a legal system work?

2. According to the text, what is authority?

3. Where do you think the U. S. legal system gets its authority from?

A Balance of Power

Florence's Signoria had a number of problems with authority. In theory, it held the city's governing power. In practice, people were often more loyal and more obedient to rules set down by their employers, the Church, political parties, professional groups called guilds, or their families.

Regularly, these groups were at cross-purposes with their government. The Signoria often lost such conflicts. Wealthy criminals went unpunished because the city couldn't overpower their private armies. The city couldn't stop feuds, riots, even civil wars. Other powers had to restore peace.

In our society, too, many different authorities are at work. What are they? Working with the others in your group, examine a section of newspaper. Which people and organizations have the right to make rules, decisions and judgments? Which have the power to enforce that right? Make a list of all the different authorities you can identify. Don't limit yourself to crime reports and the local news. What about business? Sports? The society page? Who has the authority to resolve problems between nations?

1. Based on your study, what people, groups and organizations hold authority in your community? In the U.S.? In the world?

2. Did you find any examples where authority failed? If so, did the authority lack the right to make rules and decisions? Or did it lack the power to enforce its right?

3. Though there are numerous authorities in our society, we don't have the severe problems with conflicting authority which plagued Renaissance Florence. Why do you think this is so?